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AMENDMENTS

2001—Pub. L. 107–71, title I, § 118(c)(2), Nov. 19, 2001, 115 Stat. 628, added item for chapter 483.

1997—Pub. L. 105–102, § 2(20), Nov. 20, 1997, 111 Stat. 2205, substituted ''PUBLIC AIRPORTS'' for ''RESERVED'' in item for part D and added item for chapter 491.

1996—Pub. L. 104–287, § 5(64), Oct. 11, 1996, 110 Stat. 3395, substituted ''RESERVED'' for ''MISCELLANEOUS'' in item for part D, struck out item for chapter 491 ''Buy-American Preferences'', and added items for part E and chapter 501.

Pub. L. 104–264, title II, § 277(b), Oct. 9, 1996, 110 Stat. 3248, added item for chapter 482.

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

CHAPTER 401—GENERAL PROVISIONS

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AMENDMENTS

2003—Pub. L. 108–176, title IV, § 423(b), Dec. 12, 2003, 117 Stat. 2554, added item 40129.

2000—Pub. L. 106–181, title VII, §§ 702(b)(2), 705(b), 706(b), title VIII, § 803(b), Apr. 5, 2000, 114 Stat. 156–158, 192, added items 40125 to 40128.

1997—Pub. L. 105–102, § 3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215, amended Pub. L. 104–287, § 5(69)(B). See 1996 Amendment note below.

1996—Pub. L. 104–287, § 5(69)(B), Oct. 11, 1996, 110 Stat. 3396, as amended by Pub. L. 105–102, § 3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215, added item 40124.

Pub. L. 104–264, title II, § 254, title IV, §§ 401(b)(2), 402(b), Oct. 9, 1996, 110 Stat. 3238, 3255, 3256, inserted ''safety of'' before ''air commerce'' in item 40104 and added item 40121 ''Air traffic control modernization reviews'' and items 40122 and 40123.

§ 40101. Policy

(a) ECONOMIC REGULATION.—In carrying out subpart II of this part and those provisions of subpart IV applicable in carrying out subpart II, the Secretary of Transportation shall consider the following matters, among others, as being in the public interest and consistent with public convenience and necessity:

(1) assigning and maintaining safety as the highest priority in air commerce.

(2) before authorizing new air transportation services, evaluating the safety implications of those services.

(3) preventing deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of Congress to further the highest degree of safety in air transportation and air commerce, and to maintain the safety vigilance that has evolved in air transportation and air commerce and has come to be expected by the traveling and shipping public.

(4) the availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices.

(5) coordinating transportation by, and improving relations among, air carriers, and encouraging fair wages and working conditions.

(6) placing 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 air carriers to earn adequate profits and attract capital, considering any material differences between interstate air transportation and foreign air transportation.

(7) developing and maintaining a sound regulatory system that is responsive to the needs of the public and in which decisions are reached promptly to make it easier to adapt the air transportation system to the present and future needs of—

(A) the commerce of the United States;

(B) the United States Postal Service; and

(C) the national defense.

(8) encouraging air transportation at major urban areas through secondary or satellite airports if consistent with regional airport plans of regional and local authorities, and if endorsed by appropriate State authorities—

(A) encouraging the transportation by air carriers that provide, in a specific market, transportation exclusively at those airports; and

(B) fostering an environment that allows those carriers to establish themselves and develop secondary or satellite airport services.

(9) preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation.

(10) avoiding unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would tend to allow at least one air carrier or foreign air carrier unreasonably to increase prices, reduce services, or exclude competition in air transportation.

(11) maintaining a complete and convenient system of continuous scheduled interstate air transportation for small communities and isolated areas with direct financial assistance from the United States Government when appropriate.

(12) encouraging, developing, and maintaining an air transportation system relying on actual and potential competition—

(A) to provide efficiency, innovation, and low prices; and

(B) to decide on the variety and quality of, and determine prices for, air transportation services.

(13) encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.

(14) promoting, encouraging, and developing civil aeronautics and a viable, privately-owned United States air transport industry.

(15) strengthening the competitive position of air carriers to at least ensure equality with foreign air carriers, including the attainment of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation.

(16) ensuring that consumers in all regions of the United States, including those in small communities and rural and remote areas, have access to affordable, regularly scheduled air service.

(b) ALL-CARGO AIR TRANSPORTATION CONSIDERATIONS.—In carrying out subpart II of this part and those provisions of subpart IV applicable in carrying out subpart II, the Secretary of Transportation shall consider the following matters, among others and in addition to the matters referred to in subsection (a) of this section, as being in the public interest for all-cargo air transportation:

(1) encouraging and developing an expedited all-cargo air transportation system provided by private enterprise and responsive to—

(A) the present and future needs of shippers;

(B) the commerce of the United States; and

(C) the national defense.

(2) encouraging and developing an integrated transportation system relying on competitive market forces to decide the extent, variety, quality, and price of services provided.

(3) providing services without unreasonable discrimination, unfair or deceptive practices, or predatory pricing.

(c) GENERAL SAFETY CONSIDERATIONS.—In carrying out subpart III of this part and those provisions of subpart IV applicable in carrying out subpart III, the Administrator of the Federal Aviation Administration shall consider the following matters:

(1) the requirements of national defense and commercial and general aviation.

(2) the public right of freedom of transit through the navigable airspace.

(d) SAFETY CONSIDERATIONS IN PUBLIC INTEREST.—In carrying out subpart III of this part and those provisions of subpart IV applicable in carrying out subpart III, the Administrator shall consider the following matters, among others, as being in the public interest:

(1) assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce.

(2) regulating air commerce in a way that best promotes safety and fulfills national defense requirements.

(3) encouraging and developing civil aeronautics, including new aviation technology.

(4) controlling the use of the navigable airspace and regulating civil and military operations in that airspace in the interest of the safety and efficiency of both of those operations.

(5) consolidating research and development for air navigation facilities and the installation and operation of those facilities.

(6) developing and operating a common system of air traffic control and navigation for military and civil aircraft.

(7) providing assistance to law enforcement agencies in the enforcement of laws related to regulation of controlled substances, to the extent consistent with aviation safety.

(e) INTERNATIONAL AIR TRANSPORTATION.—In formulating United States international air transportation policy, the Secretaries of State and Transportation shall develop a negotiating policy emphasizing the greatest degree of competition compatible with a well-functioning international air transportation system, including the following:

(1) strengthening the competitive position of air carriers to ensure at least equality with foreign air carriers, including the attainment of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation.

(2) freedom of air carriers and foreign air carriers to offer prices that correspond to consumer demand.

(3) the fewest possible restrictions on charter air transportation.

(4) the maximum degree of multiple and permissive international authority for air carriers so that they will be able to respond quickly to a shift in market demand.

(5) eliminating operational and marketing restrictions to the greatest extent possible.

(6) integrating domestic and international air transportation.

(7) increasing the number of nonstop United States gateway cities.

(8) opportunities for carriers of foreign countries to increase their access to places in the United States if exchanged for benefits of similar magnitude for air carriers or the traveling public with permanent linkage between rights granted and rights given away.

(9) eliminating discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including—

(A) excessive landing and user fees;

(B) unreasonable ground handling requirements;

(C) unreasonable restrictions on operations;

(D) prohibitions against change of gauge; and

(E) similar restrictive practices.

(10) promoting, encouraging, and developing civil aeronautics and a viable, privately-owned United States air transport industry.

(f) STRENGTHENING COMPETITION.—In selecting an air carrier to provide foreign air transportation from among competing applicants, the Secretary of Transportation shall consider, in addition to the matters specified in subsections (a) and (b) of this section, the strengthening of competition among air carriers operating in the United States to prevent unreasonable concentration in the air carrier industry.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1094; Pub. L. 104–264, title IV, § 401(a), Oct. 9, 1996, 110 Stat. 3255; Pub. L. 106–181, title II, § 201, Apr. 5, 2000, 114 Stat. 91.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40101(a)	49 App.:1302(a).	Aug. 23, 1958, Pub. L. 85–726, § 102(a), 72 Stat. 740; Nov. 9, 1977, Pub. L. 95–163, § 16(b)(1), (2), 91 Stat. 1284; Oct. 24, 1978, Pub. L. 95–504, § 3(a), 92 Stat. 1705; restated Feb. 15, 1980, Pub. L. 96–192, § 2, 94 Stat. 35.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
40101(b)	49 App.:1302(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 102(b); added Nov. 9, 1977, Pub. L. 95–163, § 16(b)(3), 91 Stat. 1284.
	49 App.:1551(b)(1)(E).	
40101(c)	49 App.:1347.	Aug. 23, 1958, Pub. L. 85–726, § 306, 72 Stat. 749.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40101(d)	49 App.:1303.	Aug. 23, 1958, Pub. L. 85–726, § 103, 72 Stat. 740; Nov. 18, 1988, Pub. L. 100–690, § 7202(b), 102 Stat. 4424.
	49 App.:1655(c)(1).	
40101(e)	49 App.:1502(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1102(b); added Feb. 15, 1980, Pub. L. 96–192, § 17, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	
40101(f)	49 App.:1302(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 102(c); added Oct. 31, 1992, Pub. L. 102–581, § 205, 106 Stat. 4894.

In this part, the words ''overseas air commerce'' and ''overseas air transportation'' are omitted as obsolete because there no longer is a distinction in economic or safety regulation between ''interstate'' and ''overseas'' air commerce or air transportation.

In this section, the words ''In carrying out . . . this part'' are substituted for ''In the exercise and performance of its powers and duties under this chapter'' in 49 App.:1302(a), ''In the exercise and performance of his powers and duties under this chapter'' in 49 App.:1303, and ''In exercising the authority granted in, and discharging the duties imposed by, this chapter'' in 49 App.:1347 for consistency in the revised title and to eliminate unnecessary words.

In subsections (a) and (b), the reference to subpart II is added because the policy applies only to economic issues, and under the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), the Civil Aeronautics Board was given responsibility for economic issues.

In subsection (a)(2), the word ''full'' is omitted as surplus. The words ''the recommendations of the Secretary of Transportation on'' are omitted as obsolete because the Secretary carries out 49 App.:1302(a). The words ''and full evaluation of any report or recommendation submitted under section 1307 of this Appendix'' are omitted as obsolete because the report and recommendations are no longer required.

In subsection (a)(4), the words ''by air carriers and foreign air carriers'' are omitted as surplus. The words ''unreasonable discrimination'' are substituted for ''unjust discriminations, undue preferences or advantages'' for consistency in the revised title and to eliminate unnecessary words.

In subsection (a)(6)(B), the words ''nevertheless'', ''on the one hand'', and ''on the other'' are omitted as surplus.

In subsection (a)(8), before subclause (A), the word ''authorities'' is substituted for ''entities'' for consistency in the revised title and with other titles of the Code. In subclause (A), the words ''sole responsibility'' are omitted as unnecessary because of the restatement.

In subsection (a)(15), the words ''United States'' are omitted as surplus because of the definition of ''air carrier'' in section 40102(a) of the revised title.

In subsection (b)(3), the words ''unreasonable discrimination'' are substituted for ''unjust discrimina-

tions, undue preferences or advantages'' for consistency in the revised title and to eliminate unnecessary words.

In subsections (c) and (d), the reference to subpart III is added because the policies apply only to safety issues, and under the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), the Federal Aviation Administration was given responsibility for safety issues.

In subsection (c), before clause (1), the word ''Administrator'' in section 306 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 749) is retained on authority of 49:106(g). The words ''consider the following matters'' are substituted for ''give full consideration to'' for consistency in this section.

In subsection (d)(3), the word ''both'' in 49 App.:1303(c) is omitted as surplus the first time it appears. The words ''of the United States'' are omitted for consistency in the revised title and because of the definition of ''navigable airspace'' in section 40102(a) of the revised title. The words ''of those operations'' are added for clarity.

In subsection (d)(5), the word ''both'' in 49 App.:1303(e) is omitted as surplus.

In subsection (e), before clause (1), the words ''the Congress intends that'' are omitted as surplus. In clauses (1) and (4), the words ''United States'' are omitted as surplus because of the definition of ''air carrier'' in section 40102(a) of the revised title. In clause (2), the word ''prices'' is substituted for ''fares and rates'' because of the definition of ''price'' in section 40102(a). In clause (8), the words ''places in the United States'' are substituted for ''United States points'' for consistency in this chapter. The word ''air'' is added for clarity and consistency in this subtitle. In clause (9)(C), the word ''unreasonable'' is substituted for ''undue'' for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

2000—Subsec. (a)(16). Pub. L. 106–181 added par. (16).

1996—Subsec. (d)(1). Pub. L. 104–264, § 401(a)(1)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (d)(2). Pub. L. 104–264, § 401(a)(1)(A), (2)(A), redesignated par. (1) as (2) and struck out ''its development and'' after ''best promotes''. Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 104–264, § 401(a)(1)(A), (2)(B), redesignated par. (2) as (3) and substituted ''encouraging and developing civil aeronautics, including new aviation technology'' for ''promoting, encouraging, and developing civil aeronautics''. Former par. (3) redesignated (4).

Subsec. (d)(4) to (7). Pub. L. 104–264, § 401(a)(1)(A), redesignated pars. (3) to (6) as (4) to (7), respectively.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–135, § 1, Dec. 13, 2007, 121 Stat. 1450, provided that: ''This Act [enacting section 44729 of this title] may be cited as the 'Fair Treatment for Experienced Pilots Act'.''

Pub. L. 110–113, § 1, Nov. 8, 2007, 121 Stat. 1039, provided that: ''This Act [enacting and amending provisions set out as notes under this section] may be cited as the 'Procedural Fairness for September 11 Victims Act of 2007'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–297, § 1, Aug. 9, 2004, 118 Stat. 1095, provided that: ''This Act [enacting section 44113 of this title, amending sections 44107 and 44108 of this title, and enacting provisions set out as notes under section 44101 of this title] may be cited as 'Cape Town Treaty Implementation Act of 2004'.''

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–176, § 1(a), Dec. 12, 2003, 117 Stat. 2490, provided that: ''This Act [see Tables for classification] may be cited as the 'Vision 100—Century of Aviation Reauthorization Act'.''

Pub. L. 108–176, title III, § 301, Dec. 12, 2003, 117 Stat. 2533, provided that: ''This title [enacting subchapter III of chapter 471 of this title, amending sections 40104, 40128, 47106, 47503, and 47504 of this title, and enacting provisions set out as notes under this section and sections 40128, 47171, 47503, and 47508 of this title] may be cited as 'Aviation Streamlining Approval Process Act of 2003'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–296, title XIV, § 1401, Nov. 25, 2002, 116 Stat. 2300, provided that: ''This title [enacting section 44921 of this title and section 513 of Title 6, Domestic Security, amending sections 44903 and 44918 of this title, amending provisions set out as a note under section 114 of this title, and repealing provisions set out as a note under section 44903 of this title] may be cited as the 'Arming Pilots Against Terrorism Act'.''

SHORT TITLE OF 2001 AMENDMENT

Pub. L. 107–71, § 1, Nov. 19, 2001, 115 Stat. 597, provided that: ''This Act [see Tables for classification] may be cited as the 'Aviation and Transportation Security Act'.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–528, § 1, Nov. 22, 2000, 114 Stat. 2517, provided that: ''This Act [amending sections 106, 41104, 44903, 44935, and 44936 of this title, enacting provisions set out as notes under sections 106, 44903, and 44936 of this title, and amending provisions set out as notes under sections 40128 and 47501 of this title] may be cited as the 'Airport Security Improvement Act of 2000'.''

Pub. L. 106–181, § 1(a), Apr. 5, 2000, 114 Stat. 61, provided that: ''This Act [see Tables for classification] may be cited as the 'Wendell H. Ford Aviation Investment and Reform Act for the 21st Century'.''

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–6, § 1, Mar. 31, 1999, 113 Stat. 10, provided that: ''This Act [amending sections 106, 44310, 47104, 47115 to 47117, 48101, and 48103 of this title] may be cited as the 'Interim Federal Aviation Administration Authorization Act'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–155, § 1, Feb. 11, 1998, 112 Stat. 5, provided that: ''This Act [amending section 48102 of this title and enacting provisions set out as a note under section 48102 of this title] may be cited as the 'FAA Research, Engineering, and Development Authorization Act of 1998'.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–137, § 1, Dec. 2, 1997, 111 Stat. 2640, provided that: ''This Act [amending sections 40102, 44302, 44305, 44306, 44308, and 44310 of this title and enacting provisions set out as a note under section 44310 of this title] may be cited as the 'Aviation Insurance Reauthorization Act of 1997'.''

SHORT TITLE OF 1996 AMENDMENT

Section 1(a) of Pub. L. 104–264 provided that: ''This Act [see Tables for classification] may be cited as the 'Federal Aviation Reauthorization Act of 1996'.''

Section 201 of title II of Pub. L. 104–264 provided that: ''This title [enacting sections 40121, 40122, 45301, 45303, 48111, and 48201 of this title, amending sections 106 and

41742 of this title, renumbering section 45303 of this title as section 45304, repealing former section 45301 of this title, and enacting provisions set out as notes under this section and sections 106, 40110, and 41742 of this title] may be cited as the 'Air Traffic Management System Performance Improvement Act of 1996'.''

Section 278(a) of Pub. L. 104–264 provided that: ''This section [amending section 41742 of this title and enacting provisions set out as a note under section 41742 of this title] may be cited as the 'Rural Air Service Survival Act'.''

Section 501 of title V of Pub. L. 104–264 provided that: ''This title [amending sections 30305, 44936, and 46301 of this title and enacting provisions set out as notes under sections 30305 and 44935 of this title] may be cited as the 'Pilot Records Improvement Act of 1996'.''

Section 601 of title VI of Pub. L. 104–264 provided that: ''This title [enacting section 44724 of this title] may be cited as the 'Child Pilot Safety Act'.''

Section 701 of title VII of Pub. L. 104–264 provided that: ''This title [enacting sections 1136 and 41113 of this title and provisions set out as notes under section 41113 of this title] may be cited as the 'Aviation Disaster Family Assistance Act of 1996'.''

Section 801 of title VIII of Pub. L. 104–264 provided that: ''This title [enacting section 47133 of this title, amending sections 46301 and 47107 of this title and section 9502 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under section 47107 of this title] may be cited as the 'Airport Revenue Protection Act of 1996'.''

Section 1101 of title XI of Pub. L. 104–264 provided that: ''This title [amending sections 44501, 44508, and 48102 of this title] may be cited as the 'FAA Research, Engineering, and Development Management Reform Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–305, § 1(a), Aug. 23, 1994, 108 Stat. 1569, provided that: ''This Act [enacting sections 41311, 41714, 41715, 47129, 47130, and 47509 of this title, amending sections 106, 10521, 11501, 40102, 40113, 40116, 40117, 41713, 41734, 44502, 44505, 44938, 45301, 46301, 47101, 47102, 47104 to 47107, 47109 to 47111, 47115, 47117 to 47119, 47504, 48101 to 48104, and 48108 of this title and section 9502 of Title 26, Internal Revenue Code, renumbering former section 47129 of this title as section 47131 of this title, enacting provisions set out as notes under this section and sections 10521, 11501, 40102, 40105, 40117, 41311, 41715, 44502, 45102, 47101, 47107, 47124, and 49101 of this title, and repealing provisions set out as a note under section 1348 of former Title 49, Transportation] may be cited as the 'Federal Aviation Administration Authorization Act of 1994'.''

Pub. L. 103–305, title III, § 301, Aug. 23, 1994, 108 Stat. 1589, provided that: ''This title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 49101 of this title] may be cited as the 'Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1994'.''

FINDINGS

Pub. L. 110–113, § 2, Nov. 8, 2007, 121 Stat. 1039, provided that: ''Congress finds the following:

''(1) The September 11th Victims Compensation Fund of 2001 [title IV of Pub. L. 107–42] (49 U.S.C. 40101 note) establishes a Federal cause of action in the United States District Court for the Southern District of New York as the exclusive remedy for damages arising out of the hijacking and subsequent crash of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001.

''(2) Rules 45(b)(2) and 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure [28 U.S.C. App.] effectively limit service of a subpoena to any place within, or within 100 miles of, the district of the court by which it is issued, unless a statute of the United States expressly provides that the court, upon proper application and cause shown, may authorize the service of a subpoena at any other place.

''(3) Litigating a Federal cause of action under the September 11 Victims Compensation Fund of 2001 is likely to involve the testimony and the production of other documents and tangible things by a substantial number of witnesses, many of whom may not reside, be employed, or regularly transact business in, or within 100 miles of, the Southern District of New York.''

REVITALIZATION OF AVIATION AND AERONAUTICS

Pub. L. 108–176, § 4, Dec. 12, 2003, 117 Stat. 2493, provided that: ''Congress finds the following:

''(1) The United States has revolutionized the way people travel, developing new technologies and aircraft to move people more efficiently and more safely.

''(2) Past Federal investment in aeronautics research and development has benefited the economy and national security of the United States and the quality of life of its citizens.

''(3) The total impact of civil aviation on the United States economy exceeds $900,000,000,000 annually and accounts for 9 percent of the gross national product and 11,000,000 jobs in the national workforce. Civil aviation products and services generate a significant surplus for United States trade accounts, and amount to significant numbers of the Nation's highly skilled, technologically qualified work force.

''(4) Aerospace technologies, products, and services underpin the advanced capabilities of our men and women in uniform and those charged with homeland security.

''(5) Future growth in civil aviation increasingly will be constrained by concerns related to aviation system safety and security, aviation system capabilities, aircraft noise, emissions, and fuel consumption.

''(6) Revitalization and coordination of the United States efforts to maintain its leadership in aviation and aeronautics are critical and must begin now.

''(7) A recent report by the Commission on the Future of the United States Aerospace Industry outlined the scope of the problems confronting the aerospace and aviation industries in the United States and found that—

''(A) aerospace will be at the core of the Nation's leadership and strength throughout the 21st century;

''(B) aerospace will play an integral role in the Nation's economy, security, and mobility; and

''(C) global leadership in aerospace is a national imperative.

''(8) Despite the downturn in the global economy, projections of the Federal Aviation Administration indicate that upwards of 1,000,000,000 people will fly annually by 2013. Efforts must begin now to prepare for future growth in the number of airline passengers.

''(9) The United States must increase its investment in research and development to revitalize the aviation and aerospace industries, to create jobs, and to provide educational assistance and training to prepare workers in those industries for the future.''

REPORT ON LONG-TERM ENVIRONMENTAL IMPROVEMENTS

Pub. L. 108–176, title III, § 321, Dec. 12, 2003, 117 Stat. 2540, provided that:

''(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator of the National Aeronautics and Space Administration, shall conduct a study of ways to reduce aircraft noise and emissions and to increase aircraft fuel efficiency. The study shall—

''(1) explore new operational procedures for aircraft to achieve those goals;

''(2) identify both near-term and long-term options to achieve those goals;

''(3) identify infrastructure changes that would contribute to attainment of those goals;

''(4) identify emerging technologies that might contribute to attainment of those goals;

''(5) develop a research plan for application of such emerging technologies, including new combustor and engine design concepts and methodologies for designing high bypass ratio turbofan engines so as to minimize the effects on climate change per unit of production of thrust and flight speed; and

''(6) develop an implementation plan for exploiting such emerging technologies to attain those goals.

''(b) REPORT.—The Secretary shall transmit a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act [Dec. 12, 2003].

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $500,000 for fiscal year 2004 to carry out this section.''

REDUCTION OF NOISE AND EMISSIONS FROM CIVILIAN AIRCRAFT

Pub. L. 108–176, title III, § 326, Dec. 12, 2003, 117 Stat. 2542, provided that:

''(a) ESTABLISHMENT OF RESEARCH PROGRAM.—From amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to reducing community exposure to civilian aircraft noise or emissions through grants or other measures authorized under section 106(*l*)(6) of such title, including reimbursable agreements with other Federal agencies. The program shall include participation by educational and research institutions that have existing facilities for developing and testing noise reduction engine technology.

''(b) DESIGNATION OF INSTITUTE AS A CENTER OF EXCELLENCE.—The Administrator of the Federal Aviation Administration shall designate an institution described in subsection (a) as a Center of Excellence for Noise and Emission Research.''

AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE

Pub. L. 108–176, title VII, § 709, Dec. 12, 2003, 117 Stat. 2582, provided that:

''(a) ESTABLISHMENT.—(1) The Secretary of Transportation shall establish in the Federal Aviation Administration a joint planning and development office to manage work related to the Next Generation Air Transportation System. The office shall be known as the Next Generation Air Transportation System Joint Planning and Development Office (in this section referred to as the 'Office').

''(2) The responsibilities of the Office shall include—

''(A) creating and carrying out an integrated plan for a Next Generation Air Transportation System pursuant to subsection (b);

''(B) overseeing research and development on that system;

''(C) creating a transition plan for the implementation of that system;

''(D) coordinating aviation and aeronautics research programs to achieve the goal of more effective and directed programs that will result in applicable research;

''(E) coordinating goals and priorities and coordinating research activities within the Federal Government with United States aviation and aeronautical firms;

''(F) coordinating the development and utilization of new technologies to ensure that when available, they may be used to their fullest potential in aircraft and in the air traffic control system;

''(G) facilitating the transfer of technology from research programs such as the National Aeronautics and Space Administration program and the Department of Defense Advanced Research Projects Agency program to Federal agencies with operational responsibilities and to the private sector; and

''(H) reviewing activities relating to noise, emissions, fuel consumption, and safety conducted by Federal agencies, including the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Commerce, and the Department of Defense.

''(3) The Office shall operate in conjunction with relevant programs in the Department of Defense, the National Aeronautics and Space Administration, the Department of Commerce and the Department of Homeland Security. The Secretary of Transportation may request assistance from staff from those Departments and other Federal agencies.

''(4) In developing and carrying out its plans, the Office shall consult with the public and ensure the participation of experts from the private sector including representatives of commercial aviation, general aviation, aviation labor groups, aviation research and development entities, aircraft and air traffic control suppliers, and the space industry.

''(b) INTEGRATED PLAN.—The integrated plan shall be designed to ensure that the Next Generation Air Transportation System meets air transportation safety, security, mobility, efficiency, and capacity needs beyond those currently included in the Federal Aviation Administration's operational evolution plan and accomplishes the goals under subsection (c). The integrated plan shall include—

''(1) a national vision statement for an air transportation system capable of meeting potential air traffic demand by 2025;

''(2) a description of the demand and the performance characteristics that will be required of the Nation's future air transportation system, and an explanation of how those characteristics were derived, including the national goals, objectives, and policies the system is designed to further, and the underlying socioeconomic determinants, and associated models and analyses;

''(3) a multiagency research and development roadmap for creating the Next Generation Air Transportation System with the characteristics outlined under clause (ii) [(2)], including—

''(A) the most significant technical obstacles and the research and development activities necessary to overcome them, including for each project, the role of each Federal agency, corporations, and universities;

''(B) the annual anticipated cost of carrying out the research and development activities; and

''(C) the technical milestones that will be used to evaluate the activities; and

''(4) a description of the operational concepts to meet the system performance requirements for all system users and a timeline and anticipated expenditures needed to develop and deploy the system to meet the vision for 2025.

''(c) GOALS.—The Next Generation Air Transportation System shall—

''(1) improve the level of safety, security, efficiency, quality, and affordability of the National Airspace System and aviation services;

''(2) take advantage of data from emerging ground-based and space-based communications, navigation, and surveillance technologies;

''(3) integrate data streams from multiple agencies and sources to enable situational awareness and seamless global operations for all appropriate users of the system, including users responsible for civil aviation, homeland security, and national security;

''(4) leverage investments in civil aviation, homeland security, and national security and build upon current air traffic management and infrastructure initiatives to meet system performance requirements for all system users;

''(5) be scalable to accommodate and encourage substantial growth in domestic and international trans-

portation and anticipate and accommodate continuing technology upgrades and advances;

''(6) accommodate a wide range of aircraft operations, including airlines, air taxis, helicopters, general aviation, and unmanned aerial vehicles; and

''(7) take into consideration, to the greatest extent practicable, design of airport approach and departure flight paths to reduce exposure of noise and emissions pollution on affected residents.

''(d) REPORTS.—The Administrator of the Federal Aviation Administration shall transmit to the Committee on Commerce, Science, and Transportation in the Senate and the Committee on Transportation and Infrastructure and the Committee on Science [now Committee on Science and Technology] in the House of Representatives—

''(1) not later than 1 year after the date of enactment of this Act [Dec. 12, 2003], the integrated plan required in subsection (b); and

''(2) annually at the time of the President's budget request, a report describing the progress in carrying out the plan required under subsection (b) and any changes to that plan.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office $50,000,000 for each of the fiscal years 2004 through 2010.''

NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE

Pub. L. 108–176, title VII, § 710, Dec. 12, 2003, 117 Stat. 2584, provided that:

''(a) IN GENERAL.—The Secretary of Transportation shall establish a senior policy committee to work with the Next Generation Air Transportation System Joint Planning and Development Office. The senior policy committee shall be chaired by the Secretary.

''(b) MEMBERSHIP.—In addition to the Secretary, the senior policy committee shall be composed of—

''(1) the Administrator of the Federal Aviation Administration (or the Administrator's designee);

''(2) the Administrator of the National Aeronautics and Space Administration (or the Administrator's designee);

''(3) the Secretary of Defense (or the Secretary's designee);

''(4) the Secretary of Homeland Security (or the Secretary's designee);

''(5) the Secretary of Commerce (or the Secretary's designee);

''(6) the Director of the Office of Science and Technology Policy (or the Director's designee); and

''(7) designees from other Federal agencies determined by the Secretary of Transportation to have an important interest in, or responsibility for, other aspects of the system.

''(c) FUNCTION.—The senior policy committee shall—

''(1) advise the Secretary of Transportation regarding the national goals and strategic objectives for the transformation of the Nation's air transportation system to meet its future needs;

''(2) provide policy guidance for the integrated plan for the air transportation system to be developed by the Next Generation Air Transportation System Joint Planning and Development Office;

''(3) provide ongoing policy review for the transformation of the air transportation system;

''(4) identify resource needs and make recommendations to their respective agencies for necessary funding for planning, research, and development activities; and

''(5) make legislative recommendations, as appropriate, for the future air transportation system.

''(d) CONSULTATION.—In carrying out its functions under this section, the senior policy committee shall consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, aviation labor, and the space industry), members of the public, and other interested parties and may do so through a special advisory committee composed of such representatives.''

REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES

Pub. L. 108–176, title VIII, § 817, Dec. 12, 2003, 117 Stat. 2592, provided that:

''(a) IN GENERAL.—The Secretary of Transportation may make grants to reimburse the following general aviation entities for the security costs incurred and revenue foregone as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001:

''(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

''(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act [Dec. 12, 2003] and general aviation entities operating at those airports.

''(3) General aviation entities affected by implementation of section 44939 of title 49, United States Code.

''(4) General aviation entities that were affected by Federal Aviation Administration Notices to Airmen FDC 2/1099 and 3/1862 or section 352 of the Department of Transportation and Related Agencies Appropriations Act, 2003 (Public Law 108–7, division I) [117 Stat. 420], or both.

''(5) Sightseeing operations that were not authorized to resume in enhanced class B air space under Federal Aviation Administration notice to airmen 1/1225.

''(b) DOCUMENTATION.—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

''(c) GENERAL AVIATION ENTITY DEFINED.—In this section, the term 'general aviation entity' means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

''(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

''(2) manufactures nonmilitary aircraft with a maximum seating capacity of fewer than 20 passengers or aircraft parts to be used in such aircraft;

''(3) provides services necessary for nonmilitary operations under such part 91; or

''(4) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—

''(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

''(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such term includes fixed based operators, flight schools, manufacturers of general aviation aircraft and products, persons engaged in nonscheduled aviation enterprises, and general aviation independent contractors.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000. Such sums shall remain available until expended.''

GAO REPORT ON AIRLINES' ACTIONS TO IMPROVE FINANCES AND ON EXECUTIVE COMPENSATION

Pub. L. 108–176, title VIII, § 826, Dec. 12, 2003, 117 Stat. 2596, provided that:

''(a) FINDING.—Congress finds that the United States Government has by law provided substantial financial

assistance to United States commercial airlines in the form of war risk insurance and reinsurance and other economic benefits and has imposed substantial economic and regulatory burdens on those airlines. In order to determine the economic viability of the domestic commercial airline industry and to evaluate the need for additional measures or the modification of existing laws, Congress needs more frequent information and independently verified information about the financial condition of these airlines.

''(b) GAO REPORT.—Not later than one year after the date of enactment of this Act [Dec. 12, 2003], the Comptroller General shall prepare a report for Congress analyzing the financial condition of the United States airline industry in its efforts to reduce the costs, improve the earnings and profits and balances of each individual air carrier. The report shall recommend steps that the industry should take to become financially self-sufficient.

''(c) GAO AUTHORITY.—In order to compile the report required by subsection (b), the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, documents, papers, and records of such air carriers that relate to the information required to compile the report. The Comptroller General shall submit with the report a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

''(d) REPORTS TO CONGRESS.—The Comptroller General shall transmit the report required by subsection (b) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.''

MAIL AND FREIGHT WAIVERS

Pub. L. 107–71, title I, § 127, Nov. 19, 2001, 115 Stat. 632, provided that:

''(a) IN GENERAL.—During a national emergency affecting air transportation or intrastate air transportation, the Secretary of Transportation, after consultation with the Transportation Security Oversight Board, may grant a complete or partial waiver of any restrictions on the carriage by aircraft of freight, mail, emergency medical supplies, personnel, or patients on aircraft, imposed by the Department of Transportation (or other Federal agency or department) that would permit such carriage of freight, mail, emergency medical supplies, personnel, or patients on flights, to, from, or within a State if the Secretary determines that—

''(1) extraordinary air transportation needs or concerns exist; and

''(2) the waiver is in the public interest, taking into consideration the isolation of and dependence on air transportation of the State.

''(b) LIMITATIONS.—The Secretary may impose reasonable limitations on any such waiver.''

AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE

Pub. L. 107–71, title I, § 145, Nov. 19, 2001, 115 Stat. 645, as amended by Pub. L. 108–7, div. I, title III, § 372, Feb. 20, 2003, 117 Stat. 427; Pub. L. 108–176, title IV, § 428, Dec. 12, 2003, 117 Stat. 2556; Pub. L. 108–458, title VIII, § 8404, Dec. 17, 2004, 118 Stat. 3872; Pub. L. 109–115, div. A, title I, § 178, Nov. 30, 2005, 119 Stat. 2427, required each air carrier providing scheduled air transportation on a route to provide, to the extent practicable, air transportation to passengers ticketed for air transportation on that route by any other air carrier that suspended, interrupted, or discontinued air passenger service on the route by reason of insolvency or bankruptcy of the other air carrier occurring on or before Nov. 30, 2006.

RELATIONSHIP OF ELIGIBLE CRIME VICTIM COMPENSATION PROGRAMS TO SEPTEMBER 11TH VICTIM COMPENSATION FUND

Pub. L. 107–56, title VI, § 622(e)(2), Oct. 26, 2001, 115 Stat. 372, provided that: ''With respect to any compensation payable under title IV of Public Law 107–42 [set out as a note below], the failure of a crime victim compensation program, after the effective date of final regulations issued pursuant to section 407 of Public Law 107–42, to provide compensation otherwise required pursuant to section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) shall not render that program ineligible for future grants under the Victims of Crime Act of 1984 [42 U.S.C. 10601 et seq.].''

AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION

Pub. L. 107–42, Sept. 22, 2001, 115 Stat. 230, as amended by Pub. L. 107–71, title I, § 124(a), (c), (d), title II, § 201, Nov. 19, 2001, 115 Stat. 631, 645; Pub. L. 107–134, title I, § 114(a), Jan. 23, 2002, 115 Stat. 2435; Pub. L. 107–296, title VIII, § 890, title XII, § 1201(2), Nov. 25, 2002, 116 Stat. 2251, 2286; Pub. L. 110–113, § 3, Nov. 8, 2007, 121 Stat. 1039; Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Air Transportation Safety and System Stabilization Act'.

''TITLE I—AIRLINE STABILIZATION

''SEC. 101. AVIATION DISASTER RELIEF.

''(a) IN GENERAL.—Notwithstanding any other provision of law, the President shall take the following actions to compensate air carriers for losses incurred by the air carriers as a result of the terrorist attacks on the United States that occurred on September 11, 2001:

''[(1) Repealed. Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

''(2) Compensate air carriers in an aggregate amount equal to $5,000,000,000 for—

''(A) direct losses incurred beginning on September 11, 2001, by air carriers as a result of any Federal ground stop order issued by the Secretary of Transportation or any subsequent order which continues or renews such a stoppage; and

''(B) the incremental losses incurred beginning September 11, 2001, and ending December 31, 2001, by air carriers as a direct result of such attacks.

''(b) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this title as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act [see Short Title note set out under section 900 of Title 2, The Congress], is transmitted by the President to Congress.

''[SEC. 102. Repealed. Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

''SEC. 103. SPECIAL RULES FOR COMPENSATION.

''(a) DOCUMENTATION.—Subject to subsection (b), the amount of compensation payable to an air carrier under section 101(a)(2) may not exceed the amount of losses described in section 101(a)(2) that the air carrier demonstrates to the satisfaction of the President, using sworn financial statements or other appropriate data, that the air carrier incurred. The Secretary of Transportation and the Comptroller General of the United States may audit such statements and may request any information that the Secretary and the Comptroller General deems necessary to conduct such audit.

''(b) MAXIMUM AMOUNT OF COMPENSATION PAYABLE PER AIR CARRIER.—The maximum total amount of compensation payable to an air carrier under section 101(a)(2) may not exceed the lesser of—

''(1) the amount of such air carrier's direct and incremental losses described in section 101(a)(2); or

''(2) in the case of—

''(A) flights involving passenger-only or combined passenger and cargo transportation, the product of—

''(i) $4,500,000,000; and

''(ii) the ratio of—

''(I) the available seat miles of the air carrier for the month of August 2001 as reported to the Secretary; to

''(II) the total available seat miles of all such air carriers for such month as reported to the Secretary; and

''(B) flights involving cargo-only transportation, the product of—

''(i) $500,000,000; and

''(ii) the ratio of—

''(I) the revenue ton miles or other auditable measure of the air carrier for cargo for the latest quarter for which data is available as reported to the Secretary; to

''(II) the total revenue ton miles or other auditable measure of all such air carriers for cargo for such quarter as reported to the Secretary.

''(c) PAYMENTS.—The President may provide compensation to air carriers under section 101(a)(2) in 1 or more payments up to the amount authorized by this title.

''(d) COMPENSATION FOR CERTAIN AIR CARRIERS.—

''(1) SET-ASIDE.—The President may set aside a portion of the amount of compensation payable to air carriers under section 101(a)(2) to provide compensation to classes of air carriers, such as air tour operators and air ambulances (including hospitals operating air ambulances) for whom the application of a distribution formula containing available seat miles as a factor would inadequately reflect their share of direct and incremental losses. The President shall reduce the $4,500,000,000 specified in subsection (b)(2)(A)(i) by the amount set aside under this subsection.

''(2) DISTRIBUTION OF AMOUNTS.—The President shall distribute the amount set aside under this subsection proportionally among such air carriers based on an appropriate auditable measure, as determined by the President.

''[SEC. 104. Repealed. Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

''SEC. 105. CONTINUATION OF CERTAIN AIR SERVICE.

''(a) ACTION OF SECRETARY.—The Secretary of Transportation should take appropriate action to ensure that all communities that had scheduled air service before September 11, 2001, continue to receive adequate air transportation service and that essential air service to small communities continues without interruption.

''(b) ESSENTIAL AIR SERVICE.—There is authorized to be appropriated to the Secretary to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, $120,000,000 for fiscal year 2002.

''(c) SECRETARIAL OVERSIGHT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to require an air carrier receiving direct financial assistance under this Act to maintain scheduled air service to any point served by that carrier before September 11, 2001.

''(2) AGREEMENTS.—In applying paragraph (1), the Secretary may require air carriers receiving direct financial assistance under this Act to enter into agreements which will ensure, to the maximum extent practicable, that all communities that had scheduled air service before September 11, 2001, continue to receive adequate air transportation service.

''SEC. 106. REPORTS.

''(a) REPORT.—Not later than February 1, 2002, the President shall transmit to the Committee on Transportation and Infrastructure, the Committee on Appropriations, and the Committee on the Budget of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Appropriations, and the Committee on the Budget of the Senate a report on the financial status of the air carrier industry and the amounts of assistance provided under this title to each air carrier.

''(b) UPDATE.—Not later than the last day of the 7-month period following the date of enactment of this Act [Sept. 22, 2001], the President shall update and transmit the report to the Committees.

''SEC. 107. DEFINITIONS.

''In this title, the following definitions apply:

''(1) AIR CARRIER.—The term 'air carrier' has the meaning such term has under section 40102 of title 49, United States Code.

''[(2) Repealed. Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

''(3) INCREMENTAL LOSS.—The term 'incremental loss' does not include any loss that the President determines would have been incurred if the terrorist attacks on the United States that occurred on September 11, 2001, had not occurred.

''TITLE II—AVIATION INSURANCE

''SEC. 201. DOMESTIC INSURANCE AND REIMBURSEMENT OF INSURANCE COSTS.

''(a) IN GENERAL.—[Amended section 44302 of this title.]

''(b) COVERAGE.—

''(1) IN GENERAL.—[Amended section 44303 of this title.]

''(2) [Transferred to section 44303(b) of this title.]

''(c) REINSURANCE.—[Amended section 44304 of this title.]

''(d) PREMIUMS.—[Amended section 44306 of this title.]

''(e) CONFORMING AMENDMENT.—[Amended section 44305(b) of this title.]

''SEC. 202. EXTENSION OF PROVISIONS TO VENDORS, AGENTS, AND SUBCONTRACTORS OF AIR CARRIERS.

''Notwithstanding any other provision of this title, the Secretary may extend any provision of chapter 443 of title 49, United States Code, as amended by this title, and the provisions of this title, to vendors, agents, and subcontractors of air carriers. For the 180-day period beginning on the date of enactment of this Act [Sept. 22, 2001], the Secretary may extend or amend any such provisions so as to ensure that the entities referred to in the preceding sentence are not responsible in cases of acts of terrorism for losses suffered by third parties that exceed the amount of such entities' liability coverage, as determined by the Secretary.

''TITLE III—TAX PROVISIONS

''SEC. 301. EXTENSION OF DUE DATE FOR EXCISE TAX DEPOSITS; TREATMENT OF LOSS COMPENSATION.

''(a) EXTENSION OF DUE DATE FOR EXCISE TAX DEPOSITS.—

''(1) IN GENERAL.—In the case of an eligible air carrier, any airline-related deposit required under section 6302 of the Internal Revenue Code of 1986 [26 U.S.C. 6302] to be made after September 10, 2001, and before November 15, 2001, shall be treated for purposes of such Code [26 U.S.C. 1 et seq.] as timely made if such deposit is made on or before November 15, 2001. If the Secretary of the Treasury so prescribes, the preceding sentence shall be applied by substituting for 'November 15, 2001' each place it appears—

''(A) 'January 15, 2002'; or

''(B) such earlier date after November 15, 2001, as such Secretary may prescribe.

''(2) ELIGIBLE AIR CARRIER.—For purposes of this subsection, the term 'eligible air carrier' means any domestic corporation engaged in the trade or business of transporting (for hire) persons by air if such transportation is available to the general public.

''(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term 'airline-related deposit' means any deposit of taxes imposed by subchapter C of chapter 33 of such Code [26 U.S.C. 4261 et seq.] (relating to transportation by air).

''(b) TREATMENT OF LOSS COMPENSATION.—Nothing in any provision of law shall be construed to exclude from gross income under the Internal Revenue Code of 1986 any compensation received under section 101(a)(2) of this Act.

''TITLE IV—VICTIM COMPENSATION

''SEC. 401. SHORT TITLE.

''This title may be cited as the 'September 11th Victim Compensation Fund of 2001'.

''SEC. 402. DEFINITIONS.

''In this title, the following definitions apply:

''(1) AIR CARRIER.—The term 'air carrier' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term 'agent', as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after and commenced services no later than February 17, 2002, to provide such security, and had not been or are not debarred for any period within 6 months from that date.

''(2) AIR TRANSPORTATION.—The term 'air transportation' means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

''(3) AIRCRAFT MANUFACTURER.—The term 'aircraft manufacturer' means any entity that manufactured the aircraft or any parts or components of the aircraft involved in the terrorist related aircraft crashes of September 11, 2001, including employees and agents of that entity.

''(4) AIRPORT SPONSOR.—The term 'airport sponsor' means the owner or operator of an airport (as defined in section 40102 of title 49, United States Code).

''(5) CLAIMANT.—The term 'claimant' means an individual filing a claim for compensation under section 405(a)(1).

''(6) COLLATERAL SOURCE.—The term 'collateral source' means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001.

''(7) ECONOMIC LOSS.—The term 'economic loss' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

''(8) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual determined to be eligible for compensation under section 405(c).

''(9) NONECONOMIC LOSSES.—The term 'noneconomic losses' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

''(10) SPECIAL MASTER.—The term 'Special Master' means the Special Master appointed under section 404(a).

''SEC. 403. PURPOSE.

''It is the purpose of this title to provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001.

''SEC. 404. ADMINISTRATION.

''(a) IN GENERAL.—The Attorney General, acting through a Special Master appointed by the Attorney General, shall—

''(1) administer the compensation program established under this title;

''(2) promulgate all procedural and substantive rules for the administration of this title; and

''(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Master under this title.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Master in carrying out this title.

''SEC. 405. DETERMINATION OF ELIGIBILITY FOR COMPENSATION.

''(a) FILING OF CLAIM.—

''(1) IN GENERAL.—A claimant may file a claim for compensation under this title with the Special Master. The claim shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for compensation and the amount of compensation sought.

''(2) CLAIM FORM.—

''(A) IN GENERAL.—The Special Master shall develop a claim form that claimants shall use when submitting claims under paragraph (1). The Special Master shall ensure that such form can be filed electronically, if determined to be practicable.

''(B) CONTENTS.—The form developed under subparagraph (A) shall request—

''(i) information from the claimant concerning the physical harm that the claimant suffered, or in the case of a claim filed on behalf of a decedent information confirming the decedent's death, as a result of the terrorist-related aircraft crashes of September 11, 2001;

''(ii) information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such crashes; and

''(iii) information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of such crashes.

''(3) LIMITATION.—No claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 407.

''(b) REVIEW AND DETERMINATION.—

''(1) REVIEW.—The Special Master shall review a claim submitted under subsection (a) and determine—

''(A) whether the claimant is an eligible individual under subsection (c);

''(B) with respect to a claimant determined to be an eligible individual—

''(i) the extent of the harm to the claimant, including any economic and noneconomic losses; and

''(ii) the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

''(2) NEGLIGENCE.—With respect to a claimant, the Special Master shall not consider negligence or any other theory of liability.

''(3) DETERMINATION.—Not later than 120 days after that date on which a claim is filed under subsection (a), the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review.

''(4) RIGHTS OF CLAIMANT.—A claimant in a review under paragraph (1) shall have—

''(A) the right to be represented by an attorney;

''(B) the right to present evidence, including the presentation of witnesses and documents; and

''(C) any other due process rights determined appropriate by the Special Master.

''(5) NO PUNITIVE DAMAGES.—The Special Master may not include amounts for punitive damages in any compensation paid under a claim under this title.

''(6) COLLATERAL COMPENSATION.—The Special Master shall reduce the amount of compensation determined under paragraph (1)(B)(ii) by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the terrorist-related aircraft crashes of September 11, 2001.

''(c) ELIGIBILITY.—

''(1) IN GENERAL.—A claimant shall be determined to be an eligible individual for purposes of this subsection if the Special Master determines that such claimant—

''(A) is an individual described in paragraph (2); and

''(B) meets the requirements of paragraph (3).

''(2) INDIVIDUALS.—A claimant is an individual described in this paragraph if the claimant is—

''(A) an individual who—

''(i) was present at the World Trade Center, (New York, New York), the Pentagon (Arlington, Virginia), or the site of the aircraft crash at Shanksville, Pennsylvania at the time, or in the immediate aftermath, of the terrorist-related aircraft crashes of September 11, 2001; and

''(ii) suffered physical harm or death as a result of such an air crash;

''(B) an individual who was a member of the flight crew or a passenger on American Airlines flight 11 or 77 or United Airlines flight 93 or 175, except that an individual identified by the Attorney General to have been a participant or conspirator in the terrorist-related aircraft crashes of September 11, 2001, or a representative of such individual shall not be eligible to receive compensation under this title; or

''(C) in the case of a decedent who is an individual described in subparagraph (A) or (B), the personal representative of the decedent who files a claim on behalf of the decedent.

''(3) REQUIREMENTS.—

''(A) Single claim.—Not more than one claim may be submitted under this title by an individual or on behalf of a deceased individual.

''(B) Limitation on civil action.—

''(i) IN GENERAL.—Upon the submission of a claim under this title, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001. The preceding sentence does not apply to a civil action to recover collateral source obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act.

''(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407.

''SEC. 406. PAYMENTS TO ELIGIBLE INDIVIDUALS.

''(a) IN GENERAL.—Not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under this title, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

''(b) PAYMENT AUTHORITY.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this title.

''(c) ADDITIONAL FUNDING.—

''(1) IN GENERAL.—The Attorney General is authorized to accept such amounts as may be contributed by individuals, business concerns, or other entities to carry out this title, under such terms and conditions as the Attorney General may impose.

''(2) USE OF SEPARATE ACCOUNT.—In making payments under this section, amounts contained in any account containing funds provided under paragraph (1) shall be used prior to using appropriated amounts.

''SEC. 407. REGULATIONS.

''Not later than 90 days after the date of enactment of this Act [Sept. 22, 2001], the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out this title, including regulations with respect to—

''(1) forms to be used in submitting claims under this title;

''(2) the information to be included in such forms;

''(3) procedures for hearing and the presentation of evidence;

''(4) procedures to assist an individual in filing and pursuing claims under this title; and

''(5) other matters determined appropriate by the Attorney General.

''SEC. 408. LIMITATION ON LIABILITY.

''(a) IN GENERAL.—

''(1) LIABILITY LIMITED TO INSURANCE COVERAGE.—Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity, arising from the terrorist-related aircraft crashes of September 11, 2001, against an air carrier, aircraft manufacturer, airport sponsor, or person with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect, or their directors, officers, employees, or agents, shall not be in an amount greater than the limits of liability insurance coverage maintained by that air carrier, aircraft manufacturer, airport sponsor, or person.

''(2) WILLFUL DEFAULTS ON REBUILDING OBLIGATION.—Paragraph (1) does not apply to any such person with a property interest in the World Trade Center if the Attorney General determines, after notice and an opportunity for a hearing on the record, that the person has defaulted willfully on a contractual obligation to rebuild, or assist in the rebuilding of, the World Trade Center.

''(3) LIMITATIONS ON LIABILITY FOR NEW YORK CITY.—Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city's insurance coverage or $350,000,000. If a claimant who is eligible to seek compensation under section 405 of this Act, submits a claim under section 405, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, including any such action against the City of New York. The preceding sentence does not apply to a civil action to recover collateral source obligations.

''(b) FEDERAL CAUSE OF ACTION.—

''(1) AVAILABILITY OF ACTION.—There shall exist a Federal cause of action for damages arising out of the hijacking and subsequent crashes of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001. Notwithstanding section 40120(c) of title 49, United States Code, this cause of action shall be the exclusive remedy for damages arising out of the hijacking and subsequent crashes of such flights.

''(2) SUBSTANTIVE LAW.—The substantive law for decision in any such suit shall be derived from the law, including choice of law principles, of the State in which the crash occurred unless such law is inconsistent with or preempted by Federal law.

''(3) JURISDICTION.—The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over all actions brought for any claim (including any claim for loss of property, personal injury, or death) resulting from or relating to the terrorist-related aircraft crashes of September 11, 2001.

''(4) NATIONWIDE SUBPOENAS.—

''(A) IN GENERAL.—A subpoena requiring the attendance of a witness at trial or a hearing conducted under this section may be served at any place in the United States.

''(B) RULE OF CONSTRUCTION.—Nothing in this subsection is intended to diminish the authority of a court to quash or modify a subpoena for the reasons provided in clause (i), (iii), or (iv) of subparagraph (A) or subparagraph (B) of rule 45(c)(3) of the Federal Rules of Civil Procedure [28 U.S.C. App.].

''(c) EXCLUSION.—Nothing in this section shall in any way limit any liability of any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. Subsections (a) and (b) do not apply to civil actions to recover collateral source obligations.

''SEC. 409. RIGHT OF SUBROGATION.

''The United States shall have the right of subrogation with respect to any claim paid by the United States under this title, subject to the limitations described in section 408.

''TITLE V—AIR TRANSPORTATION SAFETY

''SEC. 501. INCREASED AIR TRANSPORTATION SAFETY.

''Congress affirms the President's decision to spend $3,000,000,000 on airline safety and security in conjunction with this Act in order to restore public confidence in the airline industry.

''SEC. 502. CONGRESSIONAL COMMITMENT.

''Congress is committed to act expeditiously, in consultation with the Secretary of Transportation, to strengthen airport security and take further measures to enhance the security of air travel.

''TITLE VI—SEPARABILITY

''SEC. 601. SEPARABILITY.

''If any provision of this Act (including any amendment made by this Act [amending sections 44302 to 44306 of this title]) or the application thereof to any person or circumstance is held invalid, the remainder of this Act (including any amendment made by this Act) and the application thereof to other persons or circumstances shall not be affected thereby.''

[Pub. L. 107–134, title I, § 114(b), Jan. 23, 2002, 115 Stat. 2436, provided that: ''The amendment made by this section [amending Pub. L. 107–42, set out above] shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).'']

[Memorandum of President of the United States, Sept. 25, 2001, 66 F.R. 49507, delegated to the Secretary of Transportation the authority vested in the President under section 101(a)(2) of Pub. L. 107–42, set out above, to compensate air carriers for direct and incremental losses they incurred from the terrorist attacks of Sept. 11, 2001, and any resulting ground stop order.]

INDEPENDENT STUDY OF FAA COSTS AND ALLOCATIONS

Pub. L. 106–181, title III, § 309, Apr. 5, 2000, 114 Stat. 127, provided that:

''(a) INDEPENDENT ASSESSMENT.—

''(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct the assessments described in this section. To conduct the assessments, the Inspector General may use the staff and resources of the Inspector General or contract with one or more independent entities.

''(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FAA COST DATA AND ATTRIBUTIONS.—

''(A) IN GENERAL.—The Inspector General shall conduct an assessment to ensure that the method for calculating the overall costs of the Federal Aviation Administration and attributing such costs to specific users is appropriate, reasonable, and understandable to the users.

''(B) COMPONENTS.—In conducting the assessment under this paragraph, the Inspector General shall assess the following:

''(i) The Administration's cost input data, including the reliability of the Administration's source documents and the integrity and reliability of the Administration's data collection process.

''(ii) The Administration's system for tracking assets.

''(iii) The Administration's bases for establishing asset values and depreciation rates.

''(iv) The Administration's system of internal controls for ensuring the consistency and reliability of reported data.

''(v) The Administration's definition of the services to which the Administration ultimately attributes its costs.

''(vi) The cost pools used by the Administration and the rationale for and reliability of the bases which the Administration proposes to use in allocating costs of services to users.

''(C) REQUIREMENTS FOR ASSESSMENT OF COST POOLS.—In carrying out subparagraph (B)(vi), the Inspector General shall—

''(i) review costs that cannot reliably be attributed to specific Administration services or activities (called 'common and fixed costs' in the Administration Cost Allocation Study) and consider alternative methods for allocating such costs; and

''(ii) perform appropriate tests to assess relationships between costs in the various cost pools and activities and services to which the costs are attributed by the Administration.

''(3) COST EFFECTIVENESS.—

''(A) IN GENERAL.—The Inspector General shall assess the progress of the Administration in cost and performance management, including use of internal and external benchmarking in improving the performance and productivity of the Administration.

''(B) ANNUAL REPORTS.—Not later than December 31, 2000, and annually thereafter until December 31, 2004, the Inspector General shall transmit to Congress an updated report containing the results of the assessment conducted under this paragraph.

''(C) INFORMATION TO BE INCLUDED IN FAA FINANCIAL REPORT.—The Administrator [of the Federal Aviation Administration] shall include in the annual financial report of the Administration information on the performance of the Administration sufficient to permit users and others to make an informed evaluation of the progress of the Administration in increasing productivity.

''(b) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out this section.''

OPERATIONS OF AIR TAXI INDUSTRY

Pub. L. 106–181, title VII, § 735, Apr. 5, 2000, 114 Stat. 171, provided that:

''(a) STUDY.—The Administrator [of the Federal Aviation Administration], in consultation with the National Transportation Safety Board and other interested persons, shall conduct a study of air taxi operators regulated under part 135 of title 14, Code of Federal Regulations.

''(b) CONTENTS.—The study shall include an analysis of the size and type of the aircraft fleet, relevant aircraft equipment, hours flown, utilization rates, safety record by various categories of use and aircraft type, sales revenues, and airports served by the air taxi fleet.

''(c) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit to Congress a report on the results of the study.''

FINDINGS

Section 271 of Pub. L. 104–264 provided that: ''Congress finds the following:

''(1) The Administration [Federal Aviation Administration] is recognized throughout the world as a leader in aviation safety.

''(2) The Administration certifies aircraft, engines, propellers, and other manufactured parts.

''(3) The Administration certifies more than 650 training schools for pilots and nonpilots, more than 4,858 repair stations, and more than 193 maintenance schools.

''(4) The Administration certifies pilot examiners, who are then qualified to determine if a person has the skills necessary to become a pilot.

''(5) The Administration certifies more than 6,000 medical examiners, each of whom is then qualified to medically certify the qualifications of pilots and nonpilots.

''(6) The Administration certifies more than 470 airports, and provides a limited certification for another 205 airports. Other airports in the United States are also reviewed by the Administration.

''(7) The Administration each year performs more than 355,000 inspections.

''(8) The Administration issues more than 655,000 pilot's licenses and more than 560,000 nonpilot's licenses (including mechanics).

''(9) The Administration's certification means that the product meets world-wide recognized standards of safety and reliability.

''(10) The Administration's certification means aviation-related equipment and services meet worldwide recognized standards.

''(11) The Administration's certification is recognized by governments and businesses throughout the world and as such may be a valuable element for any company desiring to sell aviation-related products throughout the world.

''(12) The Administration's certification may constitute a valuable license, franchise, privilege or benefits for the holders.

''(13) The Administration also is a major purchaser of computers, radars, and other systems needed to run the air traffic control system. The Administration's design, acceptance, commissioning, or certification of such equipment enables the private sector to market those products around the world, and as such confers a benefit on the manufacturer.

''(14) The Administration provides extensive services to public use aircraft.''

PURPOSES

Section 272 of title II of Pub. L. 104–264 provided that: ''The purposes of this subtitle [subtitle C (§§ 271–278) of title II of Pub. L. 104–264, enacting sections 45301, 45303, 48111, and 48201 of this title, amending section 41742 of this title, renumbering section 45303 of this title as section 45304, repealing former section 45301 of this title, and enacting provisions set out as notes under this section and section 41742 of this title] are—

''(1) to provide a financial structure for the Administration [Federal Aviation Administration] so that it will be able to support the future growth in the national aviation and airport system;

''(2) to review existing and alternative funding options, including incentive-based fees for services, and establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

''(3) to ensure that any funding will be dedicated solely for the use of the Administration;

''(4) to authorize the Administration to recover the costs of its services from those who benefit from, but do not contribute to, the national aviation system and the services provided by the Administration;

''(5) to consider a fee system based on the cost or value of the services provided and other funding alternatives;

''(6) to develop funding options for Congress in order to provide for the long-term efficient and cost-effective support of the Administration and the aviation system; and

''(7) to achieve a more efficient and effective Administration for the benefit of the aviation transportation industry.''

INDEPENDENT ASSESSMENT OF FAA FINANCIAL REQUIREMENTS; ESTABLISHMENT OF NATIONAL CIVIL AVIATION REVIEW COMMISSION

Section 274 of Pub. L. 104–264, as amended by Pub. L. 106–181, title III, § 307(c)(3), Apr. 5, 2000, 114 Stat. 126, provided that:

''(a) INDEPENDENT ASSESSMENT.—

''(1) INITIATION.—Not later than 30 days after the date of the enactment of this Act [Oct. 9, 1996], the Administrator [of the Federal Aviation Administration] shall contract with an entity independent of the Administration [Federal Aviation Administration] and the Department of Transportation to conduct a complete independent assessment of the financial requirements of the Administration through the year 2002.

''(2) ASSESSMENT CRITERIA.—The Administrator shall provide to the independent entity estimates of the financial requirements of the Administration for the period described in paragraph (1), using as a base the fiscal year 1997 appropriation levels established by Congress. The independent assessment shall be based on an objective analysis of agency funding needs.

''(3) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including—

''(A) anticipated air traffic forecasts;

''(B) other workload measures;

''(C) estimated productivity gains, if any, which contribute to budgetary requirements;

''(D) the need for programs; and

''(E) the need to provide for continued improvements in all facets of aviation safety, along with operational improvements in air traffic control.

''(4) COST ALLOCATION.—The independent assessment shall also assess the costs to the Administration occasioned by the provision of services to each segment of the aviation system.

''(5) DEADLINE.—The independent assessment shall be completed no later than 90 days after the contract is awarded, and shall be submitted to the Commission established under subsection (b), the Secretary [of Transportation], the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

''(b) NATIONAL CIVIL AVIATION REVIEW COMMISSION.—

''(1) ESTABLISHMENT.—There is established a commission to be known as the National Civil Aviation Review Commission (hereinafter in this section referred to as the 'Commission').

''(2) MEMBERSHIP.—The Commission shall consist of 21 members to be appointed as follows:

''(A) 13 members to be appointed by the Secretary, in consultation with the Secretary of the Treasury, from among individuals who have expertise in the aviation industry and who are able, collectively, to represent a balanced view of the issues important to general aviation, major air carriers, air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers. At least one member appointed under this subparagraph shall have detailed knowledge of the congressional budgetary process.

''(B) Two members appointed by the Speaker of the House of Representatives.

''(C) Two members appointed by the minority leader of the House of Representatives.

''(D) Two members appointed by the majority leader of the Senate.

''(E) Two members appointed by the minority leader of the Senate.

''(3) TASK FORCES.—The Commission shall establish an aviation funding task force and an aviation safety task force to carry out the responsibilities of the Commission under this subsection.

''(4) FIRST MEETING.—The Commission may conduct its first meeting as soon as a majority of the members of the Commission are appointed.

''(5) HEARINGS AND CONSULTATION.—

''(A) HEARINGS.—The Commission shall take such testimony and solicit and receive such comments from the public and other interested parties as it considers appropriate, shall conduct 2 public hearings after affording adequate notice to the public thereof, and may conduct such additional hearings as may be necessary.

''(B) CONSULTATION.—The Commission shall consult on a regular and frequent basis with the Secretary, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

''(C) FACA NOT TO APPLY.—The Commission shall not be considered an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

''(6) DUTIES OF AVIATION FUNDING TASK FORCE.—

''(A) REPORT TO SECRETARY.—

''(i) IN GENERAL.—The aviation funding task force established pursuant to paragraph (3) shall submit a report setting forth a comprehensive analysis of the Administration's budgetary requirements through fiscal year 2002, based upon the independent assessment under subsection (a), that analyzes alternative financing and funding means for meeting the needs of the aviation system through the year 2002. The task force shall submit a preliminary report of that analysis to the Secretary not later than 6 months after the independent assessment is completed under subsection (a). The Secretary shall provide comments on the preliminary report to the task force within 30 days after receiving the report. The task force shall issue a final report of such comprehensive analysis within 30 days after receiving the Secretary's comments on its preliminary report.

''(ii) CONTENTS.—The report submitted by the aviation funding task force under clause (i)—

''(I) shall consider the independent assessment under subsection (a);

''(II) shall consider estimated cost savings, if any, resulting from the procurement and personnel reforms included in this Act [see Tables for classification] or in sections 40110(d) and 40122(g) of title 49, United States Code, and additional financial initiatives;

''(III) shall include specific recommendations to Congress on how the Administration can reduce costs, raise additional revenue for the support of agency operations, and accelerate modernization efforts; and

''(IV) shall include a draft bill containing the changes in law necessary to implement its recommendations.

''(B) RECOMMENDATIONS.—The aviation funding task force shall make such recommendations under subparagraph (A)(ii)(III) as the task force deems appropriate. Those recommendations may include—

''(i) proposals for off-budget treatment of the Airport and Airway Trust Fund;

''(ii) alternative financing and funding proposals, including linked financing proposals;

''(iii) modifications to existing levels of Airport and Airways Trust Fund receipts and taxes for each type of tax;

''(iv) establishment of a cost-based user fee system based on, but not limited to, criteria under subparagraph (F) and methods to ensure that costs are borne by users on a fair and equitable basis;

''(v) methods to ensure that funds collected from the aviation community are able to meet the needs of the agency;

''(vi) methods to ensure that funds collected from the aviation community and passengers are used to support the aviation system;

''(vii) means of meeting the airport infrastructure needs for large, medium, and small airports; and

''(viii) any other matter the task force deems appropriate to address the funding and needs of the Administration and the aviation system.

''(C) ADDITIONAL RECOMMENDATIONS.—The aviation funding task force report may also make recommendations concerning—

''(i) means of improving productivity by expanding and accelerating the use of automation and other technology;

''(ii) means of contracting out services consistent with this Act, other applicable law, and safety and national defense needs;

''(iii) methods to accelerate air traffic control modernization and improvements in aviation safety and safety services;

''(iv) the elimination of unneeded programs; and

''(v) a limited innovative program based on funding mechanisms such as loan guarantees, financial partnerships with for-profit private sector entities, government-sponsored enterprises, and revolving loan funds, as a means of funding specific facilities and equipment projects, and to provide limited additional funding alternatives for airport capacity development.

''(D) IMPACT ASSESSMENT FOR RECOMMENDATIONS.—For each recommendation contained in the aviation funding task force's report, the report shall include a full analysis and assessment of the impact implementation of the recommendation would have on—

''(i) safety;

''(ii) administrative costs;

''(iii) the congressional budget process;

''(iv) the economics of the industry (including the proportionate share of all users);

''(v) the ability of the Administration to utilize the sums collected; and

''(vi) the funding needs of the Administration.

''(E) TRUST FUND TAX RECOMMENDATIONS.—If the task force's report includes a recommendation that the existing Airport and Airways Trust Fund tax structure be modified, the report shall—

''(i) state the specific rates for each group affected by the proposed modifications;

''(ii) consider the impact such modifications shall have on specific users and the public (including passengers); and

''(iii) state the basis for the recommendations.

''(F) FEE SYSTEM RECOMMENDATIONS.—If the task force's report includes a recommendation that a fee system be established, including an air traffic control performance-based user fee system, the report shall consider—

''(i) the impact such a recommendation would have on passengers, air fares (including low-fare, high frequency service), service, and competition;

''(ii) existing contributions provided by individual air carriers toward funding the Administration and the air traffic control system through contributions to the Airport and Airways Trust Fund;

''(iii) continuing the promotion of fair and competitive practices;

''(iv) the unique circumstances associated with interisland air carrier service in Hawaii and rural air service in Alaska;

''(v) the impact such a recommendation would have on service to small communities;

''(vi) the impact such a recommendation would have on services provided by regional air carriers;

''(vii) alternative methodologies for calculating fees so as to achieve a fair and reasonable distribution of costs of service among users;

''(viii) the usefulness of phased-in approaches to implementing such a financing system;

''(ix) means of assuring the provision of general fund contributions, as appropriate, toward the support of the Administration; and

''(x) the provision of incentives to encourage greater efficiency in the provision of air traffic services by the Administration and greater efficiency in the use of air traffic services by aircraft operators.

''(7) DUTIES OF AVIATION SAFETY TASK FORCE.—

''(A) REPORT TO ADMINISTRATOR.—Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the aviation safety task force established pursuant to paragraph (3) shall submit to the Administrator a report setting forth a comprehensive analysis of aviation safety in the United States and emerging trends in the safety of particular sectors of the aviation industry.

''(B) CONTENTS.—The report to be submitted under subparagraph (A) shall include an assessment of—

''(i) the adequacy of staffing and training resources for safety personnel of the Administration, including safety inspectors;

''(ii) the Administration's processes for ensuring the public safety from fraudulent parts in civil aviation and the extent to which use of suspected unapproved parts requires additional oversight or enforcement action; and

''(iii) the ability of the Administration to anticipate changes in the aviation industry and to develop policies and actions to ensure the highest level of aviation safety in the 21st century.

''(8) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Commission appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act'), cost data associated with the acquisition and operation of air traffic service systems. Any member of the Commission who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, United States Code, pertaining to unauthorized disclosure of such information.

''(9) TRAVEL AND PER DIEM.—Each member of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

''(10) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—The Administrator shall make available to the Commission such staff, information, and administrative services and assistance as may reasonably be required to enable the Commission to carry out its responsibilities under this subsection.

''(11) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

''(c) REPORTS TO CONGRESS.—

''(1) REPORT BY THE SECRETARY BASED ON FINAL REPORT OF AVIATION FUNDING TASK FORCE.—

''(A) CONSIDERATION OF TASK FORCE'S PRELIMINARY REPORT.—Not later than 30 days after receiving the preliminary report of the aviation funding task force, the Secretary, in consultation with the Secretary of the Treasury, shall furnish comments on the report to the task force.

''(B) REPORT TO CONGRESS.—Not later than 30 days after receiving the final report of the aviation funding task force, and in no event more than 1 year after the date of the enactment of this Act, the Secretary, after consulting the Secretary of the Treasury, shall transmit a report to the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives. Such report shall be based upon the final report of the task force and shall contain the Secretary's recommendations for funding the needs of the aviation system through the year 2002.

''(C) CONTENTS.—The Secretary shall include in the report to Congress under subparagraph (B)—

''(i) a copy of the final report of the task force; and

''(ii) a draft bill containing the changes in law necessary to implement the Secretary's recommendations.

''(D) PUBLICATION.—The Secretary shall cause a copy of the report to be printed in the Federal Register upon its transmittal to Congress under subparagraph (B).

''(2) REPORT BY THE ADMINISTRATOR BASED ON FINAL REPORT OF AVIATION SAFETY TASK FORCE.—Not later than 30 days after receiving the report of the aviation safety task force, the Administrator shall transmit the report to Congress, together with the Administrator's recommendations for improving aviation safety in the United States.

''(d) GAO AUDIT OF COST ALLOCATION.—The Comptroller General shall conduct an assessment of the manner in which costs for air traffic control services are allocated between the Administration and the Department of Defense. The Comptroller General shall report the results of the assessment, together with any recommendations the Comptroller General may have for reallocation of costs and for opportunities to increase the efficiency of air traffic control services provided by the Administration and by the Department of Defense, to the Commission, the Administrator, the Secretary of Defense, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of the enactment of this Act.

''(e) GAO ASSESSMENT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall transmit to the Commission and Congress an independent assessment of airport development needs.''

JOINT AVIATION RESEARCH AND DEVELOPMENT PROGRAM

Pub. L. 103–305, title III, § 303, Aug. 23, 1994, 108 Stat. 1590, provided that:

''(a) ESTABLISHMENT.—The Administrator [of the Federal Aviation Administration], in consultation with the heads of other appropriate Federal agencies, shall jointly establish a program to conduct research on aviation technologies that enhance United States competitiveness. The program shall include—

''(1) next-generation satellite communications, including global positioning satellites;

''(2) advanced airport and airplane security;

''(3) environmentally compatible technologies, including technologies that limit or reduce noise and air pollution;

''(4) advanced aviation safety programs; and

''(5) technologies and procedures to enhance and improve airport and airway capacity.

''(b) PROCEDURES FOR CONTRACTS AND GRANTS.—The Administrator and the heads of the other appropriate Federal agencies shall administer contracts and grants entered into under the program established under subsection (a) in accordance with procedures developed jointly by the Administrator and the heads of the other appropriate Federal agencies. The procedures should include an integrated acquisition policy for contract and grant requirements and for technical data rights that are not an impediment to joint programs among the Federal Aviation Administration, the other Federal agencies involved, and industry.

''(c) PROGRAM ELEMENTS.—The program established under subsection (a) shall include—

''(1) selected programs that jointly enhance public and private aviation technology development;

''(2) an opportunity for private contractors to be involved in such technology research and development; and

''(3) the transfer of Government-developed technologies to the private sector to promote economic strength and competitiveness.

''(d) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal years 1995 and 1996 under section 48102(a) of title 49, United States Code, as amended by section 302 of this title, there are authorized to be appropriated for fiscal years 1995 and 1996, respectively, such sums as may be necessary to carry out this section.''

AIR QUALITY IN AIRCRAFT CABINS

Pub. L. 108–176, title VIII, § 815, Dec. 12, 2003, 117 Stat. 2592, provided that:

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled 'The Airliner Cabin Environment and the Health of Passengers and Crew'.

''(b) REQUIRED ACTIVITIES.—In carrying out this section, the Administrator, at a minimum, shall—

''(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

''(2) collect pesticide exposure data to determine exposures of passengers and crew;

''(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the contaminants to which passengers and crew were exposed;

''(4) analyze and study cabin air pressure and altitude; and

''(5) establish an air quality incident reporting system.

''(c) REPORT.—Not later than 30 months after the date of enactment of this Act [Dec. 12, 2003], the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.''

Pub. L. 106–181, title VII, § 725, Apr. 5, 2000, 114 Stat. 166, provided that:

''(a) STUDY OF AIR QUALITY IN PASSENGER CABINS IN COMMERCIAL AIRCRAFT.—

''(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator [of the Federal Aviation Administration] shall arrange for and provide necessary data to the National Academy of Sciences to conduct a 12-month, independent study of air quality in passenger cabins of aircraft used in air transportation and foreign air transportation, including the collection of new data, in coordination with the Federal Aviation Administration, to identify contaminants in the aircraft air and develop recommendations for means of reducing such contaminants.

''(2) ALTERNATIVE AIR SUPPLY.—The study should examine whether contaminants would be reduced by the replacement of engine and auxiliary power unit bleed air with an alternative supply of air for the aircraft passengers and crew.

''(3) SCOPE.—The study shall include an assessment and quantitative analysis of each of the following:

''(A) Contaminants of concern, as determined by the National Academy of Sciences.

''(B) The systems of air supply on aircraft, including the identification of means by which contaminants may enter such systems.

''(C) The toxicological and health effects of the contaminants of concern, their byproducts, and the products of their degradation.

''(D) Any contaminant used in the maintenance, operation, or treatment of aircraft, if a passenger or a member of the air crew may be directly exposed to the contaminant.

''(E) Actual measurements of the contaminants of concern in the air of passenger cabins during actual flights in air transportation or foreign air transportation, along with comparisons of such measurements to actual measurements taken in public buildings.

''(4) PROVISION OF CURRENT DATA.—The Administrator shall collect all data of the Federal Aviation Administration that is relevant to the study and make the data available to the National Academy of Sciences in order to complete the study.

''(b) COLLECTION OF AIRCRAFT AIR QUALITY DATA.—

''(1) IN GENERAL.—The Administrator may consider the feasibility of using the flight data recording system on aircraft to monitor and record appropriate data related to air inflow quality, including measurements of the exposure of persons aboard the aircraft to contaminants during normal aircraft operation and during incidents involving air quality problems.

''(2) PASSENGER CABINS.—The Administrator may also consider the feasibility of using the flight data recording system to monitor and record data related to the air quality in passengers cabins of aircraft.''

Pub. L. 103–305, title III, § 304, Aug. 23, 1994, 108 Stat. 1591, provided that:

''(a) ESTABLISHMENT.—The Administrator [of the Federal Aviation Administration], in consultation with the heads of other appropriate Federal agencies, shall establish a research program to determine—

''(1) what, if any, aircraft cabin air conditions, including pressure altitude systems, on flights within the United States are harmful to the health of airline passengers and crew, as indicated by physical symptoms such as headaches, nausea, fatigue, and lightheadedness; and

''(2) the risk of airline passengers and crew contracting infectious diseases during flight.

''(b) CONTRACT WITH CENTER FOR DISEASE CONTROL.—In carrying out the research program established under subsection (a), the Administrator and the heads of the other appropriate Federal agencies shall contract with the Center for Disease Control [now Centers for Disease Control and Prevention] and other appropriate agencies to carry out any studies necessary to meet the goals of the program set forth in subsection (c).

''(c) GOALS.—The goals of the research program established under subsection (a) shall be—

''(1) to determine what, if any, cabin air conditions currently exist on domestic aircraft used for flights within the United States that could be harmful to the health of airline passengers and crew, as indicated by physical symptoms such as headaches, nausea, fatigue, and lightheadedness, and including the risk of infection by bacteria and viruses;

''(2) to determine to what extent, changes in, cabin air pressure, temperature, rate of cabin air circulation, the quantity of fresh air per occupant, and humidity on current domestic aircraft would reduce or eliminate the risk of illness or discomfort to airline passengers and crew; and

''(3) to establish a long-term research program to examine potential health problems to airline passengers and crew that may arise in an airplane cabin on a flight within the United States because of cabin air quality as a result of the conditions and changes described in paragraphs (1) and (2).

''(d) PARTICIPATION.—In carrying out the research program established under subsection (a), the Administrator shall encourage participation in the program by representatives of aircraft manufacturers, air carriers, aviation employee organizations, airline passengers, and academia.

''(e) REPORT.—(1) Within six months after the date of enactment of this Act [Aug. 23, 1994], the Administrator shall submit to the Congress a plan for implementation of the research program established under subsection (a).

''(2) The Administrator shall annually submit to the Congress a report on the progress made during the year for which the report is submitted toward meeting the goals set forth in subsection (c).

''(f) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal years 1995 and 1996 under section 48102(a) of title 49, United States Code, as amended by section 302 of this title, there are authorized to be appropriated for fiscal years 1995 and 1996, respectively, such sums as may be necessary to carry out this section.''

INFORMATION ON DISINSECTION OF AIRCRAFT

Pub. L. 103–305, title V, § 507, Aug. 23, 1994, 108 Stat. 1595, provided that:

''(a) AVAILABILITY OF INFORMATION.—In the interest of protecting the health of air travelers, the Secretary shall publish a list of the countries (as determined by the Secretary) that require disinsection of aircraft landing in such countries while passengers and crew are on board such aircraft.

''(b) REVISION.—The Secretary shall revise the list required under subsection (a) on a periodic basis.

''(c) PUBLICATION.—The Secretary shall publish the list required under subsection (a) not later than 30 days after the date of the enactment of this Act [Aug. 23, 1994]. The Secretary shall publish a revision to the list not later than 30 days after completing the revision under subsection (b).''

GENERAL AVIATION REVITALIZATION ACT OF 1994

Pub. L. 103–298, Aug. 17, 1994, 108 Stat. 1552, as amended by Pub. L. 105–102, § 3(e), Nov. 20, 1997, 111 Stat. 2215, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'General Aviation Revitalization Act of 1994'.

''SEC. 2. TIME LIMITATIONS ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

''(a) IN GENERAL.—Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—

''(1) after the applicable limitation period beginning on—

''(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

''(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

''(2) with respect to any new component, system, subassembly, or other part which replaced another component, system, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

''(b) EXCEPTIONS.—Subsection (a) does not apply—

''(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Administration, or concealed or withheld from the Federal Aviation Administration, required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

''(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency;

''(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident; or

''(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

''(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term 'general aviation aircraft' means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under part A of subtitle VII of title 49, United States Code, at the time of the accident.

''(d) RELATIONSHIP TO OTHER LAWS.—This section supersedes any State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable limitation period for such civil action established by subsection (a).

''SEC. 3. OTHER DEFINITIONS.

''For purposes of this Act—

''(1) the term 'aircraft' has the meaning given such term in section 40102(a)(6) of title 49, United States Code;

''(2) the term 'airworthiness certificate' means an airworthiness certificate issued under section 44704(c)(1) of title 49, United States Code, or under any predecessor Federal statute;

''(3) the term 'limitation period' means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

''(4) the term 'type certificate' means a type certificate issued under section 44704(a) of title 49, United States Code, or under any predecessor Federal statute.

''SEC. 4. EFFECTIVE DATE; APPLICATION OF ACT.

''(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act [Aug. 17, 1994].

''(b) APPLICATION OF ACT.—This Act shall not apply with respect to civil actions commenced before the date of the enactment of this Act.''

NATIONAL COMMISSION TO ENSURE A STRONG COMPETITIVE AIRLINE INDUSTRY

Pub. L. 102–581, title II, § 204, Oct. 31, 1992, 106 Stat. 4891, as amended Pub. L. 103–13, § 1, Apr. 7, 1993, 107 Stat. 43, provided for establishment of National Commission to Ensure a Strong Competitive Airline Industry to make a complete investigation and study of financial condition of the airline industry, adequacy of competition in the airline industry, and legal impediments to a financially strong and competitive airline industry, to report to President and Congress not later than 90 days after the date on which initial appointments of members to the Commission were completed, and to terminate on the 30th day following transmission of report.

DEFINITIONS OF TERMS IN PUB. L. 107–71

For definitions of terms used in sections 127 and 145 of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.

§ 40102. Definitions

(a) GENERAL DEFINITIONS.—In this part—

(1) ''aeronautics'' means the science and art of flight.

(2) ''air carrier'' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.

(3) ''air commerce'' means foreign air commerce, interstate air commerce, the transpor-

tation of mail by aircraft, the operation of aircraft within the limits of a Federal airway, or the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate air commerce.

(4) ''air navigation facility'' means a facility used, available for use, or designed for use, in aid of air navigation, including—

(A) a landing area;

(B) a light;

(C) apparatus or equipment for distributing weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and

(D) another structure or mechanism for guiding or controlling flight in the air or the landing and takeoff of aircraft.

(5) ''air transportation'' means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

(6) ''aircraft'' means any contrivance invented, used, or designed to navigate, or fly in, the air.

(7) ''aircraft engine'' means an engine used, or intended to be used, to propel an aircraft, including a part, appurtenance, and accessory of the engine, except a propeller.

(8) ''airman'' means an individual—

(A) in command, or as pilot, mechanic, or member of the crew, who navigates aircraft when under way;

(B) except to the extent the Administrator of the Federal Aviation Administration may provide otherwise for individuals employed outside the United States, who is directly in charge of inspecting, maintaining, overhauling, or repairing aircraft, aircraft engines, propellers, or appliances; or

(C) who serves as an aircraft dispatcher or air traffic control-tower operator.

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

(10) ''all-cargo air transportation'' means the transportation by aircraft in interstate air transportation of only property or only mail, or both.

(11) ''appliance'' means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

(12) ''cargo'' means property, mail, or both.

(13) ''charter air carrier'' means an air carrier holding a certificate of public convenience and necessity that authorizes it to provide charter air transportation.

(14) ''charter air transportation'' means charter trips in air transportation authorized under this part.

(15) ''citizen of the United States'' means—

(A) an individual who is a citizen of the United States;

(B) a partnership each of whose partners is an individual who is a citizen of the United States; or

(C) a corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, which is under the actual control of citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

(16) ''civil aircraft'' means an aircraft except a public aircraft.

(17) ''civil aircraft of the United States'' means an aircraft registered under chapter 441 of this title.

(18) ''conditional sales contract'' means a contract—

(A) for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part, under which the buyer takes possession of the property but title to the property vests in the buyer at a later time on—

(i) paying any part of the purchase price;

(ii) performing another condition; or

(iii) the happening of a contingency; or

(B) to bail or lease an aircraft, aircraft engine, propeller, appliance, or spare part, under which the bailee or lessee—

(i) agrees to pay an amount substantially equal to the value of the property; and

(ii) is to become, or has the option of becoming, the owner of the property on complying with the contract.

(19) ''conveyance'' means an instrument, including a conditional sales contract, affecting title to, or an interest in, property.

(20) ''Federal airway'' means a part of the navigable airspace that the Administrator designates as a Federal airway.

(21) ''foreign air carrier'' means a person, not a citizen of the United States, undertaking by any means, directly or indirectly, to provide foreign air transportation.

(22) ''foreign air commerce'' means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation, between a place in the United States and a place outside the United States when any part of the transportation or operation is by aircraft.

(23) ''foreign air transportation'' means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

(24) ''interstate air commerce'' means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation—

(A) between a place in—

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

(ii) a State and another place in the same State through the airspace over a place outside the State;

(iii) the District of Columbia and another place in the District of Columbia; or

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

(B) when any part of the transportation or operation is by aircraft.

(25) ''interstate air transportation'' means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(A) between a place in—

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

(ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii;

(iii) the District of Columbia and another place in the District of Columbia; or

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

(B) when any part of the transportation is by aircraft.

(26) ''intrastate air carrier'' means a citizen of the United States undertaking by any means to provide only intrastate air transportation.

(27) ''intrastate air transportation'' means the transportation by a common carrier of passengers or property for compensation, entirely in the same State, by turbojet-powered aircraft capable of carrying at least 30 passengers.

(28) ''landing area'' means a place on land or water, including an airport or intermediate landing field, used, or intended to be used, for the takeoff and landing of aircraft, even when facilities are not provided for sheltering, servicing, or repairing aircraft, or for receiving or discharging passengers or cargo.

(29) ''large hub airport'' means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.

(30) ''mail'' means United States mail and foreign transit mail.

(31) ''medium hub airport'' means a commercial service airport (as defined in section 47102) that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

(32) ''navigable airspace'' means airspace above the minimum altitudes of flight prescribed by regulations under this subpart and subpart III of this part, including airspace needed to ensure safety in the takeoff and landing of aircraft.

(33) ''navigate aircraft'' and ''navigation of aircraft'' include piloting aircraft.

(34) ''nonhub airport'' means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.

(35) ''operate aircraft'' and ''operation of aircraft'' mean using aircraft for the purposes of air navigation, including—

(A) the navigation of aircraft; and

(B) causing or authorizing the operation of aircraft with or without the right of legal control of the aircraft.

(36) ''passenger boardings''—

(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

(37) ''person'', in addition to its meaning under section 1 of title 1, includes a governmental authority and a trustee, receiver, assignee, and other similar representative.

(38) ''predatory'' means a practice that violates the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

(39) ''price'' means a rate, fare, or charge.

(40) ''propeller'' includes a part, appurtenance, and accessory of a propeller.

(41) ''public aircraft'' means any of the following:

(A) Except with respect to an aircraft described in subparagraph (E), an aircraft used only for the United States Government, except as provided in section 40125(b).

(B) An aircraft owned by the Government and operated by any person for purposes related to crew training, equipment development, or demonstration, except as provided in section 40125(b).

(C) An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(D) An aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(E) An aircraft owned or operated by the armed forces or chartered to provide transportation to the armed forces under the conditions specified by section 40125(c).

(42) ''small hub airport'' means a commercial service airport (as defined in section 47102) that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

(43) ''spare part'' means an accessory, appurtenance, or part of an aircraft (except an aircraft engine or propeller), aircraft engine (except a propeller), propeller, or appliance, that is to be installed at a later time in an aircraft, aircraft engine, propeller, or appliance.

(44) ''State authority'' means an authority of a State designated under State law—

(A) to receive notice required to be given a State authority under subpart II of this part; or

(B) as the representative of the State before the Secretary of Transportation in any matter about which the Secretary is required to consult with or consider the views of a State authority under subpart II of this part.

(45) ''ticket agent'' means a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation.

(46) ''United States'' means the States of the United States, the District of Columbia, and the territories and possessions of the United States, including the territorial sea and the overlying airspace.

(47) ''air traffic control system'' means the combination of elements used to safely and efficiently monitor, direct, control, and guide aircraft in the United States and United States-assigned airspace, including—

(A) allocated electromagnetic spectrum and physical, real, personal, and intellectual property assets making up facilities, equipment, and systems employed to detect, track, and guide aircraft movement;

(B) laws, regulations, orders, directives, agreements, and licenses;

(C) published procedures that explain required actions, activities, and techniques used to ensure adequate aircraft separation; and

(D) trained personnel with specific technical capabilities to satisfy the operational, engineering, management, and planning requirements for air traffic control.

(b) LIMITED DEFINITION.—In subpart II of this part, ''control'' means control by any means.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1097; Pub. L. 103–305, title VI, § 601(b)(2)(B), Aug. 23, 1994, 108 Stat. 1606; Pub. L. 103–411, § 3(a), Oct. 25, 1994, 108 Stat. 4236; Pub. L. 103–429, § 6(46), Oct. 31, 1994, 108 Stat. 4384; Pub. L. 105–137, § 6, Dec. 2, 1997, 111 Stat. 2641; Pub. L. 106–181, title III, § 301, title VII, § 702(a), Apr. 5, 2000, 114 Stat. 115, 155; Pub. L. 108–176, title II, § 225(a), title VIII, § 807, Dec. 12, 2003, 117 Stat. 2528, 2588.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40102(a)(1) ..	49 App.:1301(2).	Aug. 23, 1958, Pub. L. 85–726, §§ 101(2), (3) (less proviso), (5)–(10), 413, 72 Stat. 737, 770.
40102(a)(2) ..	49 App.:1301(3) (less proviso).	
40102(a)(3) ..	49 App.:1301(4).	Aug. 23, 1958, Pub. L. 85–726, § 101(4), 72 Stat. 737; Sept. 5, 1961, Pub. L. 87–197, § 3, 75 Stat. 467.
40102(a)(4) ..	49 App.:1301(8).	
40102(a)(5) ..	49 App.:1301(10).	
40102(a)(6), (7).	49 App.:1301(5), (6).	
40102(a)(8) ..	49 App.:1301(7).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40102(a)(9) ..	49 App.:1301(9).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40102(a)(10)	49 App.:1301(11).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 101(11); added Nov. 9, 1977, Pub. L. 95–163, § 17(b)(2), 91 Stat. 1286; restated Oct. 4, 1984, Pub. L. 98–443, § 9(a)(1), 98 Stat. 1706.
40102(a)(11)	49 App.:1301(12).	Aug. 23, 1958, Pub. L. 85–726, § 101(12), (16)–(34), (37), (40), (41), 72 Stat. 737, 739; July 10, 1962, Pub. L. 87–528, § 1, 76 Stat. 143; Sept. 26, 1968, Pub. L. 90–514, § 1, 82 Stat. 867; Oct. 14, 1970, Pub. L. 91–449, § 1(2), 84 Stat. 921; Aug. 5, 1974, Pub. L. 93–366, § 206, 88 Stat. 419; Nov. 9, 1977, Pub. L. 95–163, § 17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, § 2(a)(4), (b), 92 Stat. 1705.
40102(a)(12)	(no source).	
40102(a)(13)	49 App.:1301(14) (less certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 101(14) (less certificate), (15); added Oct. 24, 1978, Pub. L. 95–504, § 2(a)(1), 92 Stat. 1705.
40102(a)(14)	49 App.:1301(15).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
40102(a)(15)–(18).	49 App.:1301(16)–(19).	
40102(a)(19)	49 App.:1301(20).	
40102(a)(20)	49 App.:1301(21).	
	49 App.:1655(c)(1).	
40102(a)(21)	49 App.:1301(22).	
40102(a)(22)	49 App.:1301(23) (related to foreign air commerce).	
40102(a)(23)	49 App.:1301(24) (related to foreign air transportation).	
40102(a)(24)	49 App.:1301(23) (related to interstate and overseas air commerce).	
40102(a)(25)	49 App.:1301(24) (related to interstate and overseas air transportation).	
	49 App.:1305(b)(2), (d) (related to (b)(2)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 105(b)(2), (d) (related to (b)(2)); added Oct. 24, 1978, Pub. L. 95–504, § 4(a), 92 Stat. 1708.
40102(a)(26)–(32).	49 App.:1301(25)–(31).	
40102(a)(33)	49 App.:1301(32).	
40102(a)(34)	49 App.:1301(35).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 101(35), (39); added Oct. 24, 1978, Pub. L. 95–504, § 2(a)(2), (3), (b), 92 Stat. 1705.
40102(a)(35)	(no source).	
40102(a)(36)	49 App.:1301(33), (34).	
40102(a)(37)	49 App.:1301(36).	Aug. 23, 1958, Pub. L. 85–726, § 101(36), 72 Stat. 739; Aug. 5, 1974, Pub. L. 93–366, § 206, 88 Stat. 419; Nov. 9, 1977, Pub. L. 95–163, § 17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, § 2, 92 Stat. 1705; Dec. 30, 1987, Pub. L. 100–223, § 207, 101 Stat. 1523.
40102(a)(38)	49 App.:1301(37).	
40102(a)(39)	49 App.:1301(39).	
40102(a)(40)	49 App.:1301(40).	
40102(a)(41)	49 App.:1301(41).	
40102(b)	49 App.:1383.	

In subsection (a)(2), the words ''by any means'' are substituted for ''whether . . . or by a lease or any other arrangement'' to eliminate unnecessary words. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(3), the words ''or navigation'' are omitted as being included in the definition of ''operation of aircraft'' in this subsection.

In subsection (a)(4)(D), the words ''having a similar purpose'' are omitted as surplus.

In subsection (a)(6), the words ''now known or hereafter'' are omitted as surplus.

In subsection (a)(7), the words ''of the engine'' are substituted for ''thereof'' for clarity.

In subsection (a)(8)(A), the words ''as the person'' are omitted as surplus.

In subsection (a)(10), the word ''transportation'' is substituted for ''carriage'' for consistency in the revised title.

In subsection (a)(11), the words ''of whatever description'' are omitted as surplus. The word ''navigation'' is omitted as being included in the definition of ''operate aircraft'' in this subsection. The words ''or mechanisms'' are omitted because of 1:1.

Subsection (a)(12) is added for clarity to distinguish between cargo (which includes mail) and property (which does not include mail).

In subsection (a)(13), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(14), the words ''including inclusive tour charter trips'' are omitted as obsolete. The words ''authorized under this part'' are substituted for ''rendered pursuant to authority conferred under this chapter under regulations prescribed by the Board'' to eliminate unnecessary words.

In subsection (a)(15)(A), the words ''or of one of its possessions'' are omitted as being included in the definition of ''United States'' in this subsection.

In subsection (a)(15)(C), the words ''created or'' are omitted as being included in ''organized''.

In subsection (a)(17), the words ''chapter 441 of this title'' are substituted for ''this chapter'' for clarity because aircraft are registered only under chapter 441.

In subsection (a)(18), the text of 49 App.:1301(19) (last sentence) is omitted as surplus.

In subsection (a)(18)(A), before subclause (i), the words ''title to'' are added for clarity and consistency in this section.

In subsection (a)(18)(B)(i), the words ''as compensation'' are omitted as surplus.

In subsection (a)(18)(B)(ii), the words ''it is agreed that'', ''bound'', ''full'', and ''the terms of'' are omitted as surplus.

In subsection (a)(19), the words ''bill of sale . . . mortgage, assignment of mortgage, or other'' are omitted as being included in ''instrument''.

In subsection (a)(20), the words ''of the United States'' are omitted for consistency in the revised title and because of the definition of ''navigable airspace'' in this subsection.

In subsection (a)(21), the words ''by any means'' are substituted for ''whether . . . or by lease or any other arrangement'' to eliminate unnecessary words. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(22)–(25) and (27), the words ''transportation'' and ''passengers'' are substituted for ''carriage'' and ''persons'', respectively, for consistency in the revised title. The word ''compensation'' is substituted for, and is coextensive with, ''compensation or hire''.

In subsection (a)(22) and (24), the words ''or navigation'' are omitted as being included in the definition of ''operation of aircraft'' in this subsection. The words ''the conduct or'' and ''in commerce'' are omitted as surplus. The words ''when any part of the transportation or operation is by aircraft'' are substituted for 49 App.:1301(23) (words after last semicolon) to eliminate unnecessary words.

In subsection (a)(23) and (25), the words ''in commerce'' are omitted as surplus. The words ''when any part of the transportation is by aircraft'' are substituted for 49 App.:1301(24) (words after last semicolon) to eliminate unnecessary words.

In subsection (a)(24), (25), and (27), the words ''of the United States'' are omitted as surplus.

In subsection (a)(24)(A)(i) and (25)(A)(i), the words ''or the District of Columbia'' the first time they appear are omitted as surplus.

In subsection (a)(25)(A)(ii), the text of 49 App.:1301(24)(a) (words between semicolons) is omitted because 49 App.:1305(b)(2) removes the subject matter of the text from the definition. See H. Rept. No. 95–1211, 95th Cong., 2d Sess., p.16 (1978).

In subsection (a)(26), the words ''by any means'' are substituted for ''whether . . . or by a lease or any other arrangement'' to eliminate unnecessary words. The word ''provide'' is substituted for ''engage'' for consistency in the revised title.

In subsection (a)(28), the word ''place'' is substituted for ''locality'' for consistency in the revised title.

In subsection (a)(32)(B), the words ''(in the capacity of owner, lessee, or otherwise)'' are omitted as surplus.

In subsection (a)(33), the words ''in addition to its meaning under section 1 of title 1'' are substituted for ''any individual, firm, copartnership, corporation, company, association, joint stock association'' for clarity because 1:1 is applicable to all laws unless otherwise provided. The words ''governmental authority'' are substituted for ''body politic'' for consistency in the revised title and with other titles of the United States Code.

Subsection (a)(35) is added to eliminate repetition of the words ''rates, fares, or charges'' throughout this part.

In subsection (a)(36), the text of 49 App.:1301(34) (1st sentence) is omitted as obsolete. Reference to the Canal Zone is omitted because of the Panama Canal Treaty of 1977. The text of 49 App.:1301(34) (last sentence) is omitted because of 48:734.

Subsection (a)(37)(A)(i) is substituted for ''used exclusively in the service of any government'' and ''For purposes of this paragraph, 'used exclusively in the service of' means, for other than the Federal Government'' for clarity and to eliminate unnecessary words.

Subsection (a)(37)(A)(ii) is substituted for ''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'' and ''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'' for clarity and to eliminate unnecessary words.

In subsection (a)(37)(B), the words ''transporting passengers or property'' are substituted for ''engaged in carrying persons or property'' for consistency in the revised title.

In subsection (a)(38), the words ''that is to be installed at a later time'' are substituted for ''maintained for installation or use . . . but which at the time are not installed therein or attached thereto'' to eliminate unnecessary words.

In subsection (a)(39), the word ''authority'' is substituted for ''agency'' and ''entity'' for consistency in the revised title. Before subclause (A), the words ''department, agency, officer, or other'' are omitted as being included in ''authority''.

In subsection (a)(40), the words ''bona fide'' and ''by solicitation, advertisement, or otherwise'' are omitted as surplus. The words ''furnishes, contracts'' are omitted as being included in ''providing, or arranging''.

In subsection (a)(41), the words ''States of the United States'' are substituted for ''several States'', and the word ''sea'' is substituted for ''waters'', for consistency in the revised title and with other titles of the Code.

Subsection (b) is substituted for 49 App.:1383 to eliminate unnecessary words.

PUB. L. 103–429

This makes a conforming amendment for consistency with the style of title 49.

AMENDMENTS

2003—Subsec. (a)(15)(C). Pub. L. 108–176, § 807, inserted ''which is under the actual control of citizens of the United States,'' before ''and in which''.

Subsec. (a)(29) to (47). Pub. L. 108–176, § 225(a), added pars. (29), (31), (34), (36), and (42) and redesignated former pars. (29), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), and (42) as (30), (32), (33), (35), (37), (38), (39), (40), (41), (43), (44), (45), (46), and (47), respectively.

2000—Subsec. (a)(37). Pub. L. 106–181, § 702(a), amended par. (37) generally, revising and restating provisions defining ''public aircraft'' to include references to qualifications found in section 40125(b) and (c).

Subsec. (a)(42). Pub. L. 106–181, § 301, added par. (42).

1997—Subsec. (a)(37)(A). Pub. L. 105–137 struck out ''or'' at end of cl. (i), added cl. (ii), and redesignated former cl. (ii) as (iii).

1994—Subsec. (a)(30). Pub. L. 103–429 substituted ''this subpart and subpart III'' for ''subparts I and III''.

Subsec. (a)(35). Pub. L. 103–305 struck out ''for air transportation'' after ''charge''.

Subsec. (a)(37)(B). Pub. L. 103–411 added subpar. (B) and struck out former subpar. (B) which read as follows: ''does not include a government-owned aircraft transporting passengers or property for commercial purposes.''

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

Amendment by Pub. L. 103–411 effective on the 180th day following Oct. 25, 1994, see section 3(d) of Pub. L. 103–411, set out as a note under section 1131 of this title.

Amendment by Pub. L. 103–305 effective Jan. 1, 1995, see section 601(d) of Pub. L. 103–305, set out as a note under section 10521 of this title.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

DEFINITIONS OF TERMS IN PUB. L. 107–71

Pub. L. 107–71, title I, § 133, Nov. 19, 2001, 115 Stat. 636, provided that: ''Except as otherwise explicitly provided, any term used in this title [see Tables for classification] that is defined in section 40102 of title 49, United States Code, has the meaning given that term in that section.''

DEFINITIONS APPLICABLE TO PUB. L. 106–181

Pub. L. 106–181, § 4, Apr. 5, 2000, 114 Stat. 64, provided that: ''Except as otherwise provided in this Act [see Tables for classification], the following definitions apply:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.''

DEFINITIONS APPLICABLE TO PUB. L. 103–305

Section 2 of Pub. L. 103–305 provided that: ''In this Act [see Short Title of 1994 Amendment note set out under section 40101 of this title], the following definitions apply:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.''

§ 40103. Sovereignty and use of airspace

(a) SOVEREIGNTY AND PUBLIC RIGHT OF TRANSIT.—(1) The United States Government has exclusive sovereignty of airspace of the United States.

(2) A citizen of the United States has a public right of transit through the navigable airspace. To further that right, the Secretary of Transportation shall consult with the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) before prescribing a regulation or issuing an order or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped individuals.

(b) USE OF AIRSPACE.—(1) The Administrator of the Federal Aviation Administration shall develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. The Administrator may modify or revoke an assignment when required in the public interest.

(2) The Administrator shall prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for—

(A) navigating, protecting, and identifying aircraft;

(B) protecting individuals and property on the ground;

(C) using the navigable airspace efficiently; and

(D) preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

(3) To establish security provisions that will encourage and allow maximum use of the navigable airspace by civil aircraft consistent with national security, the Administrator, in consultation with the Secretary of Defense, shall—

(A) establish areas in the airspace the Administrator decides are necessary in the interest of national defense; and

(B) by regulation or order, restrict or prohibit flight of civil aircraft that the Administrator cannot identify, locate, and control with available facilities in those areas.

(4) Notwithstanding the military exception in section 553(a)(1) of title 5, subchapter II of chapter 5 of title 5 applies to a regulation prescribed under this subsection.

(c) FOREIGN AIRCRAFT.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States as provided in section 41703 of this title.

(d) AIRCRAFT OF ARMED FORCES OF FOREIGN COUNTRIES.—Aircraft of the armed forces of a foreign country may be navigated in the United States only when authorized by the Secretary of State.

(e) NO EXCLUSIVE RIGHTS AT CERTAIN FACILITIES.—A person does not have an exclusive right to use an air navigation facility on which Government money has been expended. However, providing services at an airport by only one

fixed-based operator is not an exclusive right if—

(1) it is unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and

(2) allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an agreement existing on September 3, 1982, between the operator and the airport.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1101.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40103(a)(1) ..	49 App.:1508(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §§307(a), (c), (d), 308(a) (3d sentence), 1108(a), 1201, 1202, 72 Stat. 749, 750, 751, 798, 800.
40103(a)(2) ..	49 App.:1304.	Aug. 23, 1958, Pub. L. 85–726, § 104, 72 Stat. 740; Oct. 4, 1984, Pub. L. 98–443, § 14, 98 Stat. 1711.
	49 App.:1551(b)(1)(E).	Aug. 28, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
40103(b)(1) ..	49 App.:1348(a).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40103(b)(2) ..	49 App.:1348(c).	
	49 App.:1655(c)(1).	
40103(b)(3) ..	49 App.:1521.	
	49 App.:1522.	
	49 App.:1655(c)(1).	
40103(b)(4) ..	49 App.:1348(d).	
40103(c)	(no source).	
40103(d)	49 App.:1508(a) (last sentence).	
40103(e)	49 App.:1349(a) (3d sentence).	
	49 App.:1349(a) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 308(a) (last sentence); added Sept. 3, 1982, Pub. L. 97–248, § 524(a)(1), 96 Stat. 695.

In subsection (a)(1), the word ''has'' is substituted for ''is declared to possess and exercise complete and'' to eliminate surplus words. The word ''national'' is omitted as surplus. The text of 49 App.:1508(a) (1st sentence words after 1st comma) is omitted as surplus.

In subsection (a)(2), the words ''of the United States'' are omitted for consistency in the revised title and because of the definition of ''navigable airspace'' in section 40102(a) of the revised title. The words ''or amending'' are omitted as surplus.

In subsection (b), the word ''Administrator'' in section 307(a), (c), and (d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 749, 750) is retained on authority of 49:106(g).

In subsection (b)(1) and (3)(B), the word ''rule'' is omitted as being synonymous with ''regulation''.

In subsection (b)(1), the words ''under such terms, conditions, and limitations as he may deem'' are omitted as surplus. The words ''In the exercise of his authority under section 1348(a) of this Appendix'' in 49 App.:1522 are omitted as unnecessary because of the restatement.

In subsection (b)(2), before clause (A), the word ''shall'' is substituted for ''is further authorized and directed'' for consistency in the revised title and to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words ''In the exercise of his authority under section 1348(a) of this Appendix'' in 49 App.:1522 are omitted as surplus. The word ''navigable'' is added for clarity and consistency. In clause (A), the words ''such zones or'' are omitted as surplus.

In subsection (b)(4), the words ''the military exception'' are substituted for ''any exception relating to military or naval functions'' to eliminate unnecessary words and because ''naval'' is included in ''military''. The words ''applies to a regulation prescribed under'' are substituted for ''In the exercise of the rulemaking authority . . . the Secretary of Transportation shall be subject to'' to eliminate unnecessary words and because ''rules'' and ''regulations'' are synonymous.

Subsection (c) is added for clarity.

In subsection (d), the words ''including the Canal Zone'' are omitted because of the Panama Canal Treaty of 1977.

In subsection (e), before clause (1), the words ''any landing area'' are omitted as being included in the definition of ''air navigation facility'' in section 40102(a) of the revised title. The word ''only'' is added for clarity. In clause (2), the words ''on September 3, 1982'' are added for clarity.

REGULATIONS

Pub. L. 85–726, title VI, § 613(a), (b), as added by Pub. L.101–508, title IX, § 9124, Nov. 5, 1990, 104 Stat. 1388–370, provided that:

''(a) NATIONAL DISASTER AREAS.—Before the 180th day following the date of the enactment of this section [Nov. 5, 1990], the Administrator, for safety and humanitarian reasons, shall issue such regulations as may be necessary to prohibit or otherwise restrict aircraft overflights of any inhabited area which has been declared a national disaster area in the State of Hawaii.

''(b) EXCEPTIONS.—Regulations issued pursuant to subsection (a) shall not be applicable in the case of aircraft overflights involving an emergency or a ligitimate [sic] scientific purpose.''

NATIONAL AIRSPACE REDESIGN

Pub. L. 106–181, title VII, § 736, Apr. 5, 2000, 114 Stat. 171, provided that:

''(a) FINDINGS.—Congress makes the following findings:

''(1) The national airspace, comprising more than 29 million square miles, handles more than 55,000 flights per day.

''(2) Almost 2,000,000 passengers per day traverse the United States through 20 major en route centers, including more than 700 different sectors.

''(3) Redesign and review of the national airspace may produce benefits for the travelling public by increasing the efficiency and capacity of the air traffic control system and reducing delays.

''(4) Redesign of the national airspace should be a high priority for the Federal Aviation Administration and the air transportation industry.

''(b) REDESIGN.—The Administrator [of the Federal Aviation Administration], with advice from the aviation industry and other interested parties, shall conduct a comprehensive redesign of the national airspace system.

''(c) REPORT.—Not later than December 31, 2000, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the Administrator's comprehensive national airspace redesign. The report shall include projected milestones for completion of the redesign and shall also include a date for completion.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Administrator to carry out this section $12,000,000 for each of fiscal years 2000, 2001, and 2002.''

§ 40104. Promotion of civil aeronautics and safety of air commerce

(a) DEVELOPING CIVIL AERONAUTICS AND SAFETY OF AIR COMMERCE.—The Administrator of the Federal Aviation Administration shall encourage the development of civil aeronautics and safety of air commerce in and outside the

United States. In carrying out this subsection, the Administrator shall take action that the Administrator considers necessary to establish, within available resources, a program to distribute civil aviation information in each region served by the Administration. The program shall provide, on request, informational material and expertise on civil aviation to State and local school administrators, college and university officials, and officers of other interested organizations.

(b) INTERNATIONAL ROLE OF THE FAA.—The Administrator shall promote and achieve global improvements in the safety, efficiency, and environmental effect of air travel by exercising leadership with the Administrator's foreign counterparts, in the International Civil Aviation Organization and its subsidiary organizations, and other international organizations and fora, and with the private sector.

(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47176.[1]

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1102; Pub. L. 103–429, § 6(47), Oct. 31, 1994, 108 Stat. 4384; Pub. L. 104–264, title IV, § 401(b)(1), Oct. 9, 1996, 110 Stat. 3255; Pub. L. 108–176, title III, § 303, title VIII, § 813, Dec. 12, 2003, 117 Stat. 2533, 2590.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40104	49 App.:1346.	Aug. 23, 1958, Pub. L. 85–726, § 305, 72 Stat. 749.
	49 App.:1346a.	July 12, 1976, Pub. L. 94–353, § 21, 90 Stat. 884.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The words ''and foster'' in 49 App.:1346 are omitted as surplus. The words ''In carrying out this section'' are substituted for ''In furtherance of his mandate to promote civil aviation'' in 49 App.:1346a because of the restatement. The word ''Administrator'' is substituted for ''Secretary of Transportation acting through the Administrator of the Federal Aviation Administration'' for consistency with the source provisions restated in this section. The words ''be designed so as to'', ''various aspects of'', and ''civil and'' are omitted as surplus.

PUB. L. 103–429, § 6(47)(A), (B)

This makes conforming amendments to 49:40104, as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1102), because of the restatement of 49 App.:1655(c)(1) (words after last comma) as 49:40104(b) by section 6(47)(C) of the bill.

PUB. L. 103–429, § 6(47)(C)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40104(b)	49 App.:1655(c)(1) (words after last comma).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1) (words after last comma), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

[1] See References in Text note below.

REFERENCES IN TEXT

Section 47176, referred to in subsec. (c), probably should be a reference to section 47175 of this title, which defines ''congested airport'' and ''airport capacity enhancement project''. No section 47176 of this title has been enacted.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–176, § 813, amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''The Secretary of Transportation may develop and construct a civil supersonic aircraft.''

Subsec. (c). Pub. L. 108–176, § 303, added subsec. (c).

1996—Pub. L. 104–264, § 401(b)(1)(A), inserted ''safety of'' before ''air commerce'' in section catchline.

Subsec. (a). Pub. L. 104–264, § 401(b)(1)(B), (C), inserted ''SAFETY OF'' before ''AIR COMMERCE'' in heading and ''safety of'' before ''air commerce'' in text.

1994—Pub. L. 103–429 designated existing provisions as subsec. (a), inserted heading, substituted ''carrying out this subsection'' for ''carrying out this section'', and added subsec. (b).

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 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 40105. International negotiations, agreements, and obligations

(a) ADVICE AND CONSULTATION.—The Secretary of State shall advise the Administrator of the Federal Aviation Administration and the Secretaries of Transportation and Commerce, and consult with them as appropriate, about negotiations for an agreement with a government of a foreign country to establish or develop air navigation, including air routes and services. The Secretary of Transportation shall consult with the Secretary of State in carrying out this part to the extent this part is related to foreign air transportation.

(b) ACTIONS OF SECRETARY AND ADMINISTRATOR.—(1) In carrying out this part, the Secretary of Transportation and the Administrator—

(A) shall act consistently with obligations of the United States Government under an international agreement;

(B) shall consider applicable laws and requirements of a foreign country; and

(C) may not limit compliance by an air carrier with obligations or liabilities imposed by the government of a foreign country when the Secretary takes any action related to a certificate of public convenience and necessity issued under chapter 411 of this title.

(2) This subsection does not apply to an agreement between an air carrier or an officer or rep-

resentative of an air carrier and the government of a foreign country, if the Secretary of Transportation disapproves the agreement because it is not in the public interest. Section 40106(b)(2) of this title applies to this subsection.

(c) CONSULTATION ON INTERNATIONAL AIR TRANSPORTATION POLICY.—In carrying out section 40101(e) of this title, the Secretaries of State and Transportation, to the maximum extent practicable, shall consult on broad policy goals and individual negotiations with—

(1) the Secretaries of Commerce and Defense;
(2) airport operators;
(3) scheduled air carriers;
(4) charter air carriers;
(5) airline labor;
(6) consumer interest groups;
(7) travel agents and tour organizers; and
(8) other groups, institutions, and governmental authorities affected by international aviation policy.

(d) CONGRESSIONAL OBSERVERS AT INTERNATIONAL AVIATION NEGOTIATIONS.—The President shall grant to at least one representative of each House of Congress the privilege of attending international aviation negotiations as an observer if the privilege is requested in advance in writing.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1102.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40105(a)	49 App.:1462.	Aug. 23, 1958, Pub. L. 85–726, § 802, 72 Stat. 783.
	49 App.:1551(b)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(B); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1745.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat 2444.
40105(b)	49 App.:1502(a).	Aug. 23, 1958, Pub. L. 85–726, § 1102(a), 72 Stat. 797; Feb. 15, 1980, Pub. L. 96–192, § 17, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	
40105(c)	49 App.:1502(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1102(c), (d); added Feb. 15, 1980, Pub. L. 96–192, § 17, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	
40105(d)	49 App.:1502(d).	

In subsection (a), the words ''government of a foreign country'' are substituted for ''foreign governments'' in 49 App.:1462 and ''foreign country'' in 49 App.:1502(a) for consistency in the revised title and with other titles of the United States Code. The words ''Secretary of Transportation'' are substituted for ''Department of Transportation'' in 49 App.:1551(b)(1)(B) because of 49:102(b). The words ''Secretary of State'' are substituted for ''Department of State'' because of 22:2651.

In subsection (b)(1), before clause (A), the words ''carrying out'' are substituted for ''exercising and performing . . . powers and duties'' for consistency in the revised title and with other titles of the Code. In clause (A), the words ''an international agreement'' are substituted for ''any treaty, convention, or agreement that may be in force between the United States and any foreign country or foreign countries'' for consistency and to eliminate unnecessary words. In clause (C), the word ''public'' is added for consistency in this part.

In subsection (b)(2), the words ''obligation, duty, or liability arising out of a contract or other'' and ''heretofore or hereafter'' are omitted as surplus. The words ''government of a foreign country'' are substituted for ''foreign country'' for consistency in the revised title and with other titles of the Code. The last sentence is inserted to inform the reader that section 40106(b)(2) of the revised title qualifies this subsection.

In subsection (c), before clause (1), the words ''To assist'' are omitted as surplus. The words ''carrying out'' are substituted for ''developing and implementing'' for consistency in the revised title and with other titles of the Code. The word ''both'' is omitted as surplus. In clause (8), the word ''authorities'' is substituted for ''agencies'' for consistency in the revised title and with other titles of the Code.

RECIPROCAL AIRWORTHINESS CERTIFICATION

Pub. L. 108–176, title VIII, § 812, Dec. 12, 2003, 117 Stat. 2590, provided that:

''(a) IN GENERAL.—As part of their bilateral negotiations with foreign nations and their civil aviation counterparts, the Secretary of State and the Administrator of the Federal Aviation Administration shall facilitate the reciprocal airworthiness certification of aviation products.

''(b) RECIPROCAL AIRWORTHINESS DEFINED.—In this section, the term 'reciprocal airworthiness certification of aviation products' means that the regulatory authorities of each nation perform a similar review in certifying or validating the certification of aircraft and aircraft components of other nations.''

REPORT ON CERTAIN BILATERAL NEGOTIATIONS

Pub. L. 103–305, title V, § 519, Aug. 23, 1994, 108 Stat. 1600, provided that: ''The Secretary shall report every other month to the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of all active aviation bilateral and multilateral negotiations and informal government-to-government consultations with United States aviation trade partners.''

§ 40106. Emergency powers

(a) DEVIATIONS FROM REGULATIONS.—Appropriate military authority may authorize aircraft of the armed forces of the United States to deviate from air traffic regulations prescribed under section 40103(b)(1) and (2) of this title when the authority decides the deviation is essential to the national defense because of a military emergency or urgent military necessity. The authority shall—

(1) give the Administrator of the Federal Aviation Administration prior notice of the deviation at the earliest practicable time; and
(2) to the extent time and circumstances allow, make every reasonable effort to consult with the Administrator and arrange for the deviation in advance on a mutually agreeable basis.

(b) SUSPENSION OF AUTHORITY.—(1) When the President decides that the government of a foreign country is acting inconsistently with the Convention for the Suppression of Unlawful Seizure of Aircraft or that the government of a foreign country allows territory under its jurisdiction to be used as a base of operations or training of, or as a sanctuary for, or arms, aids, or abets, a terrorist organization that knowingly uses the unlawful seizure, or the threat of an unlawful seizure, of an aircraft as an instrument of policy, the President may suspend the authority of—

(A) an air carrier or foreign air carrier to provide foreign air transportation to and from that foreign country;

(B) a person to operate aircraft in foreign air commerce to and from that foreign country;

(C) a foreign air carrier to provide foreign air transportation between the United States and another country that maintains air service with the foreign country; and

(D) a foreign person to operate aircraft in foreign air commerce between the United States and another country that maintains air service with the foreign country.

(2) The President may act under this subsection without notice or a hearing. The suspension remains in effect for as long as the President decides is necessary to ensure the security of aircraft against unlawful seizure. Notwithstanding section 40105(b) of this title, the authority of the President to suspend rights under this subsection is a condition to a certificate of public convenience and necessity, air carrier operating certificate, foreign air carrier or foreign aircraft permit, or foreign air carrier operating specification issued by the Secretary of Transportation under this part.

(3) An air carrier or foreign air carrier may not provide foreign air transportation, and a person may not operate aircraft in foreign air commerce, in violation of a suspension of authority under this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1103.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40106(a)	49 App.:1348(f).	Aug. 23, 1958, Pub. L. 85–726, § 307(f), 72 Stat. 750.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40106(b)	49 App.:1514.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1114; added Aug. 5, 1974, Pub. L. 93–366, § 106, 88 Stat. 413.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	

In subsection (a), before clause (1), the words ''armed forces'' are substituted for ''national defense forces'' because of 10:101. The words ''section 40103(b)(1) and (2) of this title'' are substituted for ''this subchapter'' as being more precise. In clauses (1) and (2), the word ''Administrator'' in section 307(f) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750) is retained on authority of 49:106(g). In clause (2), the words ''fully'' and ''required'' are omitted as surplus.

In subsection (b)(1), the words ''government of a foreign country'' are substituted for ''foreign nation'' for consistency in the revised title and with other titles of the Code. Before clause (A), the words ''in a manner'' and ''in any way'' are omitted as surplus. The word ''authority'' is substituted for ''right'' as being more precise and for consistency in the revised title.

In subsection (b)(2), the words ''deemed to be'' are omitted because a legal conclusion is being stated.

In subsection (b)(3), the words ''by the President'' are omitted as surplus.

AIRCRAFT PIRACY

The United States is a party to the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague, Dec. 16, 1970, entered into force as to the United States, Oct. 14, 1971, 22 UST 1641.

§ 40107. Presidential transfers

(a) GENERAL AUTHORITY.—The President may transfer to the Administrator of the Federal Aviation Administration a duty, power, activity, or facility of a department, agency, or instrumentality of the executive branch of the United States Government, or an officer or unit of a department, agency, or instrumentality of the executive branch, related primarily to selecting, developing, testing, evaluating, establishing, operating, or maintaining a system, procedure, facility, or device for safe and efficient air navigation and air traffic control. In making a transfer, the President may transfer records and property and make officers and employees from the department, agency, instrumentality, or unit available to the Administrator.

(b) DURING WAR.—If war occurs, the President by executive order may transfer to the Secretary of Defense a duty, power, activity, or facility of the Administrator. In making the transfer, the President may transfer records, property, officers, and employees of the Administration to the Department of Defense.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1104.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40107(a)	49 App.:1345.	Aug. 23, 1958, Pub. L. 85–726, §§ 302(e), 304, 72 Stat. 746, 749.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40107(b)	49 App.:1343(c).	
	49 App.:1655(c)(1).	

In this section, the words ''functions (including . . . parts of functions)'' are omitted as included in ''duty, power, activity, or facility''.

In subsection (a), the words ''of a department, agency, or instrumentality of the executive branch of the United States Government'' are substituted for ''the executive departments or agencies of the Government'' for consistency in the revised title and with other titles of the United States Code. The word ''unit'' is substituted for ''organizational entity'' for clarity. The words ''appropriate'' and ''civilian and military'' are omitted as surplus. The words ''officers and employees'' are substituted for ''personnel'' for consistency in the revised title and with other titles of the Code. The words ''to the Administrator'' are added for clarity.

In subsection (b), the text of 49 App.:1343(c) (words before proviso) is omitted as obsolete. The words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:133(a). The words ''prior to enactment of such proposed legislation'' are omitted as obsolete because the legislation was not enacted. The word ''appropriate'' is omitted as surplus. The words ''of the Administration to the Department of Defense'' are added for clarity.

EX. ORD. NO. 10786. TRANSFER OF FUNCTIONS OF THE AIRWAYS MODERNIZATION BOARD TO THE ADMINISTRATOR

Ex. Ord. No. 10786, Nov. 1, 1958, 23 F.R. 8573, provided:

SECTION 1. All functions (including powers, duties, activities, and parts of functions) of the Airways Modernization Board, including those of the Chairman thereof, are hereby transferred to the Administrator of the Federal Aviation Agency; and all records, property, facilities, employees, and unexpended balances of ap-

propriations, allocations, and other funds of the Airways Modernization Board, are hereby transferred to the Federal Aviation Agency [now Federal Aviation Administration].

SEC. 2. Such further measures and dispositions, if any, as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine to be necessary in connection with the transfers provided for hereinabove in respect of records, property, facilities, employees, and balances shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 3. The provisions of this order shall become effective concurrently with the entering upon office as Administrator of the Federal Aviation Agency [now Federal Aviation Administration] of the first person appointed as Administrator. The functions transferred by section 1 hereof may be performed by the Administrator until the effective date of the repeal [Aug. 23, 1958] of the Airways Modernization Act of 1957 [former 49 U.S.C. 1211 et seq.] effected by section 1401(d) of the Federal Aviation Act of 1958 [Pub. L. 85–726].

DWIGHT D. EISENHOWER.

EX. ORD. NO. 10797. DELEGATION OF AUTHORITY TO THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 10797, Dec. 24, 1958, 23 F.R. 10391, provided:

SECTION 1. There is hereby delegated to the Director of the Bureau of the Budget [now the Office of Management and Budget] all authority vested in the President by the last sentence of section 304 [see 49 U.S.C. 40107(a)], and by sections 1502(a) and 1502(b), of the Federal Aviation Act of 1958 (72 Stat. 749, 810) [Pub. L. 85–726, former 49 U.S.C. 1341 note], relating, respectively, (1) to providing in connection with transfers of functions made under other provisions of section 304, (i) for appropriate transfers of records and property, and (ii) for necessary civilian and military personnel to be made available from any office, department, or other agency from which transfers of functions are so made; (2) to determining the employees and property (including office equipment and official equipment and official records) employed by the Civil Aeronautics Board in the exercise and performance of those powers and duties which are vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended [former 49 U.S.C. 401 et seq.], and which are vested by the Federal Aviation Act of 1958 [see 49 U.S.C. 40101 et seq.] in the Federal Aviation Agency, and to specifying the date or dates upon which the transfers of officers, employees, and property (including office equipment and official records) under section 1502(a) shall occur; and (3) specifying the date or dates upon which transfers of unexpended balances of appropriations under section 1502(b) shall occur. Such further measures and dispositions as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine to be necessary in connection with the exercise of the authority delegated to him by this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 2. Executive Order No. 10731 of October 10, 1957, delegating to the Director of the Bureau of the Budget [now the Office of Management and Budget] the authority vested in the President by a certain provision of the Airways Modernization Act of 1957 [former 49 U.S.C. 1211 et seq.], is hereby revoked, such revocation to become effective on the date the repeal of that act takes effect under sections 1401(d) [repealing former 49 U.S.C. 1211–1215] and 1505(2) [former 49 U.S.C. 1301 note] of the Federal Aviation Act of 1958 (72 Stat. 806, 811).

SEC. 3. Except as otherwise provided in section 2 hereof, the provisions of this order shall become effective immediately.

DWIGHT D. EISENHOWER.

EX. ORD. NO. 11047. DELEGATION OF AUTHORITY TO SECRETARY OF DEFENSE AND ADMINISTRATOR

Ex. Ord. No. 11047, Aug. 28, 1962, 27 F.R. 8665, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of Defense and the Administrator of the Federal Aviation Administration are hereby designated and empowered to exercise jointly, without the approval, ratification, or other action of the President, the authority vested in the President by the first sentence of section 304 of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1345 (first sentence)) [see 49 U.S.C. 40107(a)] to transfer functions (including, as used in this order, powers, duties, activities, facilities, and parts of functions) as described in that sentence to the extent that the said authority is in respect of transfers from the Department of Defense or any officer or organizational entity thereof to the Administrator of the Federal Aviation Administration of functions relating to flight inspection of air navigation facilities.

SEC. 2. The Administrator and the Secretary shall exercise the authority hereinabove delegated to them only as they shall deem such exercise to be necessary or desirable in the interest of promoting, in respect of either civil or military aviation or both, safe and efficient air navigation and air traffic control.

SEC. 3. (a) To the extent necessitated by transfers of functions effected under the provisions of Section 1 of this order:

(1) Transfers of balances of appropriations available and necessary to finance and discharge the transferred functions shall be made under the authority of Section 202(b) of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c(b) [see 31 U.S.C. 1531]) as affected by the provisions of section 1(k) of Executive Order No. 10530 of May 10, 1954 [set out as a note under section 301 of Title 3, The President].

(2) Provisions for appropriate transfers of records and property shall be made under the authority of the last sentence of Section 304 of the Federal Aviation Act of 1958 [see 49 U.S.C. 40107(a)] as affected by the provisions of Section 1 of Executive Order No. 10797 of December 24, 1958 [set out above].

(b) Neither this order nor the said Executive Order No. 10797 shall be deemed to require or authorize the transfer of any civilian or military personnel from the Department of Defense to the Federal Aviation Administration, under authority of the said Section 304 [see 49 U.S.C. 40107(a)], in connection with transfers of functions effected under the provisions of Section 1 of this order.

SEC. 4. (a) In order to facilitate the orderly and timely accomplishment of the transfers and other arrangements mentioned in Section 3(a) of this order, the Secretary of Defense and the Administrator of the Federal Aviation Administration shall transmit to the Director of the Office of Management and Budget, not less than 30 days prior to the execution by them of any order or other transfer instrument in pursuance of the provisions of Section 1 of this order, all appropriate information in respect to any transfers or other arrangements proposed to be made in connection therewith under the provisions of Section 3 hereof, together with copy of the order or other transfer instrument proposed to be executed by them.

(b) In connection with any particular action or actions under Section 1 of this order, the Director of the Office of Management and Budget may either waive the requirements of Section 4(a), above, or reduce the 30 day period there prescribed.

EX. ORD. NO. 11161. TRANSFER OF FEDERAL AVIATION AGENCY TO DEFENSE DEPARTMENT IN EVENT OF WAR

Ex. Ord. No. 11161, eff. July 7, 1964, 29 F.R. 9317, as amended by Ex. Ord. No. 11382, eff. Nov. 28, 1967, 32 F.R. 16247, provided:

WHEREAS Section 302(e) of the Federal Aviation Act of 1958 [see 49 U.S.C. 40107(b)] provides, in part, 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 functions) of the Federal Aviation Administration; and

WHEREAS it appears that the defense of the United States would require the transfer of the Federal Aviation Administration to the Department of Defense in the event of war; and

WHEREAS if any such transfer were to be made it would be essential to the defense of the United States that the transition be accomplished promptly and with maximum ease and effectiveness; and

WHEREAS these objectives require that the relationships that would obtain in the event of such a transfer as between the Federal Aviation Administration and the Department of Defense be understood in advance by the two agencies concerned and be developed in necessary detail by them in advance of transfer:

NOW, THEREFORE, by virtue of the authority vested in me by Section 302(e) (72 Stat. 746; 49 U.S.C. 1343(c)) [see 49 U.S.C. 40107(b)], and as President of the United States and Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense and the Secretary of Transportation are hereby directed to prepare and develop plans, procedures, policies, programs, and courses of action in anticipation of the probable transfer of the Federal Aviation Administration to the Department of Defense in the event of war. Those plans, policies, procedures, programs, and courses of action shall be prepared and developed in conformity with the following-described standards and conditions—

(A) The Federal Aviation Administration will function as an adjunct of the Department of Defense with the Federal Aviation Administrator being responsible directly to the Secretary of Defense and subject to his authority, direction, and control to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

(B) To the extent deemed by the Secretary of Defense to be necessary for the accomplishment of the military mission, he will be empowered to direct the Administrator to place operational elements of the Federal Aviation Administration under the direct operational control of appropriate military commanders.

(C) While functioning as an adjunct of the Department of Defense, the Federal Aviation Administration will remain organizationally intact and the Administrator thereof will retain responsibility for administration of his statutory functions, subject to the authority, direction, and control of the Secretary of Defense to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

SEC. 2. In furtherance of the objectives of the foregoing provisions of this order, the Secretary of Defense and the Secretary of Transportation shall, to the extent permitted by law, make such arrangements and take such actions as they deem necessary to assure—

(A) That the functions of the Federal Aviation Administration are performed during any period of national emergency short of war in a manner that will assure that essential national defense requirements will be satisfied during any such period of national emergency.

(B) Consistent with the provisions of paragraphs (A), (B), and (C) of Section 1 of this order, that any transfer of the Federal Aviation Administration to the Department of Defense, in the event of war, will be accomplished smoothly and rapidly and effective operation of the agencies and functions affected by the transfer will be achieved after the transfer.

LYNDON B. JOHNSON.

§ 40108. Training schools

(a) AUTHORITY TO OPERATE.—The Administrator of the Federal Aviation Administration may operate schools to train officers and employees of the Administration to carry out duties, powers, and activities of the Administrator.

(b) ATTENDANCE.—The Administrator may authorize officers and employees of other departments, agencies, or instrumentalities of the United States Government, officers and employees of governments of foreign countries, and individuals from the aeronautics industry to attend those schools. However, if the attendance of any of those officers, employees, or individuals increases the cost of operating the schools, the Administrator may require the payment or transfer of amounts or other consideration to offset the additional cost. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1104.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40108(a)	49 App.:1354(d) (1st sentence). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, § 313(d), 72 Stat. 753. Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40108(b)	49 App.:1354(d) (2d–last sentences). 49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 313(d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g). The words ''school or'' are omitted because of 1:1.

In subsection (a), the words ''officers and'' are added for clarity and consistency in the revised title and with other titles of the United States Code. The words ''to carry out duties, powers, and activities of the Administrator'' are substituted for ''in those subjects necessary for the proper performance of all authorized functions of the Administration'' for clarity and consistency in the revised title.

In subsection (b), the words ''officers and employees'' are substituted for ''personnel'', the words ''departments, agencies, or instrumentalities of the United States Government'' are substituted for ''governmental'', and the words ''governments of foreign countries'' are substituted for ''foreign governments'', for consistency in the revised title and with other titles of the Code. The words ''courses given in'', ''sufficient'', and ''appropriate'' are omitted as surplus. The text of 49 App.:1354(d) (3d sentence) is omitted as unnecessary because chapter 41 of title 5, United States Code, applies to all training of employees. The words ''or both'' are substituted for ''(3) in part as provided under clause (1) and in part as provided under clause (2)'' to eliminate unnecessary words.

§ 40109. Authority to exempt

(a) AIR CARRIERS AND FOREIGN AIR CARRIERS NOT ENGAGED DIRECTLY IN OPERATING AIRCRAFT.—(1) The Secretary of Transportation may exempt from subpart II of this part—

(A) an air carrier not engaged directly in operating aircraft in air transportation; or

(B) a foreign air carrier not engaged directly in operating aircraft in foreign air transportation.

(2) The exemption is effective to the extent and for periods that the Secretary decides are in the public interest.

(b) SAFETY REGULATION.—The Administrator of the Federal Aviation Administration may grant an exemption from a regulation prescribed in carrying out sections 40103(b)(1) and (2), 40119, 44901, 44903, 44906, and 44935–44937 of this title when the Administrator decides the exemption is in the public interest.

(c) OTHER ECONOMIC REGULATION.—Except as provided in this section, the Secretary may exempt to the extent the Secretary considers necessary a person or class of persons from a provision of chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II of chapter 421, and sections 44909 and 46301(b) of this title, or a regulation or term prescribed under any of those provisions, when the Secretary decides that the exemption is consistent with the public interest.

(d) LABOR REQUIREMENTS.—The Secretary may not exempt an air carrier from section 42112 of this title. However, the Secretary may exempt from section 42112(b)(1) and (2) an air carrier not providing scheduled air transportation, and the operations conducted during daylight hours by an air carrier providing scheduled air transportation, when the Secretary decides that—

(1) because of the limited extent of, or unusual circumstances affecting, the operation of the air carrier, the enforcement of section 42112(b)(1) and (2) of this title is or would be an unreasonable burden on the air carrier that would obstruct its development and prevent it from beginning or continuing operations; and

(2) the exemption would not affect adversely the public interest.

(e) MAXIMUM FLYING HOURS.—The Secretary may not exempt an air carrier under this section from a provision referred to in subsection (c) of this section, or a regulation or term prescribed under any of those provisions, that sets maximum flying hours for pilots or copilots.

(f) SMALLER AIRCRAFT.—(1) An air carrier is exempt from section 41101(a)(1) of this title, and the Secretary may exempt an air carrier from another provision of subpart II of this part, if the air carrier—

(A)(i) provides passenger transportation only with aircraft having a maximum capacity of 55 passengers; or

(ii) provides the transportation of cargo only with aircraft having a maximum payload of less than 18,000 pounds; and

(B) complies with liability insurance requirements and other regulations the Secretary prescribes.

(2) The Secretary may increase the passenger or payload capacities when the public interest requires.

(3)(A) An exemption under this subsection applies to an air carrier providing air transportation between 2 places in Alaska, or between Alaska and Canada, only if the carrier is authorized by Alaska to provide the transportation.

(B) The Secretary may limit the number or location of places that may be served by an air carrier providing transportation only in Alaska under an exemption from section 41101(a)(1) of this title, or the frequency with which the transportation may be provided, only when the Secretary decides that providing the transportation substantially impairs the ability of an air carrier holding a certificate issued by the Secretary to provide its authorized transportation, including the minimum transportation requirement for Alaska specified under section 41732(b)(1)(B) of this title.

(g) EMERGENCY AIR TRANSPORTATION BY FOREIGN AIR CARRIERS.—(1) To the extent that the Secretary decides an exemption is in the public interest, the Secretary may exempt by order a foreign air carrier from the requirements and limitations of this part for not more than 30 days to allow the foreign air carrier to carry passengers or cargo in interstate air transportation in certain markets if the Secretary finds that—

(A) because of an emergency created by unusual circumstances not arising in the normal course of business, air carriers holding certificates under section 41102 of this title cannot accommodate traffic in those markets;

(B) all possible efforts have been made to accommodate the traffic by using the resources of the air carriers, including the use of—

(i) foreign aircraft, or sections of foreign aircraft, under lease or charter to the air carriers; and

(ii) the air carriers' reservations systems to the extent practicable;

(C) the exemption is necessary to avoid unreasonable hardship for the traffic in the markets that cannot be accommodated by the air carriers; and

(D) granting the exemption will not result in an unreasonable advantage to any party in a labor dispute where the inability to accommodate traffic in a market is a result of the dispute.

(2) When the Secretary grants an exemption to a foreign air carrier under this subsection, the Secretary shall—

(A) ensure that air transportation that the foreign air carrier provides under the exemption is made available on reasonable terms;

(B) monitor continuously the passenger load factor of air carriers in the market that hold certificates under section 41102 of this title; and

(C) review the exemption at least every 30 days to ensure that the unusual circumstances that established the need for the exemption still exist.

(3) The Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days. An exemption may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.

(h) NOTICE AND OPPORTUNITY FOR HEARING.—The Secretary may act under subsections (d) and (f)(3)(B) of this section only after giving the air carrier notice and an opportunity for a hearing.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1104; Pub. L. 104–287, § 5(65), Oct. 11, 1996, 110 Stat. 3395.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40109(a)	49 App.:1301(3) (proviso).	Aug. 23, 1958, Pub. L. 85–726, §§101(3) (proviso), 307(e), 416(b)(2), 72 Stat. 737, 750, 771.
	49 App.:1386(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §416(b)(3)–(6); added Oct. 24, 1978, Pub. L. 95–504, §§31(b), 32, 92 Stat. 1732.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
40109(b)	49 App.:1348(e).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40109(c)	49 App.:1386(b)(1).	Aug. 23, 1958, Pub. L. 85–726, §416(b)(1), 72 Stat. 771; restated Oct. 24, 1978, Pub. L. 95–504, §31(a), 92 Stat. 1731.
	49 App.:1551(b)(1)(E).	
40109(d)	49 App.:1386(b)(2) (less words between 6th and 7th commas, proviso).	
	49 App.:1551(b)(1)(E).	
40109(e)	49 App.:1386(b)(2) (proviso).	
	49 App.:1551(b)(1)(E).	
40109(f)	49 App.:1386(b)(4), (5), (6) (less words between 5th and 6th commas).	
	49 App.:1551(b)(1)(E).	
40109(g)	49 App.:1386(b)(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §416(b)(7); added Feb. 15, 1980, Pub. L. 96–192, §13, 94 Stat. 39.
	49 App.:1551(b)(1)(E).	
40109(h)	49 App.:1386(b)(2) (words between 6th and 7th commas), (6) (words between 5th and 6th commas).	
	49 App.:1551(b)(1)(E).	

In this section, the words ''requirements of'', ''term'', and ''or limitation'' are omitted as surplus. The word ''rule'' is omitted as being synonymous with ''regulation''. The word ''unreasonable'' is substituted for ''undue'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), before clause (A), the words ''by order'' are omitted as unnecessary because of 5:ch. 5, subch. II. The word ''exempt'' is substituted for ''relieve'' for consistency in this section.

In subsection (a)(2), the words ''that the Secretary decides'' are added for clarity.

In subsections (b), (c), and (f)(1)(B), the words ''from time to time'' are omitted as unnecessary.

In subsection (b), the word ''Administrator'' in section 307(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750) is retained on authority of 49:106(g).

In subsection (d), before clause (1), the words ''to the extent'' are omitted as surplus.

In subsection (f)(1), before clause (A), the words ''Subject to paragraph (5) of this subsection'' and ''in air transportation'' are omitted as surplus. The words ''the Secretary may exempt'' are substituted for ''as may be prescribed in regulations promulgated by the Board'' for clarity and to eliminate unnecessary words. In clause (A)(ii), the word ''capacity'' is omitted as surplus. In clause (B), the word ''reasonable'' is omitted as surplus. The word ''prescribes'' is substituted for ''adopt'' for consistency in the revised title and with other titles of the Code. The words ''in the public interest'' are omitted as surplus.

In subsection (f)(2), the words ''by regulation'' are omitted as surplus. The word ''payload'' is substituted for ''property'' for consistency in this subsection. The words ''specified in this paragraph'' are omitted as surplus.

In subsection (f)(3), the words ''the State of'' are omitted as surplus.

In subsection (f)(3)(A), the words ''under this subsection'' are substituted for ''from section 1371 of this title or any other requirement of this chapter'', the words ''2 places'' are substituted for ''points both of which are'', and the word ''between'' is substituted for ''one of which is in . . . and the other in'', to eliminate unnecessary words.

In subsection (f)(3)(B), the word ''only'' is added for clarity. The words ''promulgated by the Board'', ''by such air carrier to points within such State'', and ''but not limited to'' are omitted as surplus. The word ''Alaska'' is substituted for ''such State'' for clarity. The cross-reference is to section 41732(b)(1)(B) to correct an error in the source provisions. The cross-reference in 49 App.:1386(b)(6) to 49 App.:1389(c)(2) should have been to 49 App.:1389(f)(2). This error was not corrected when 49 App.:1389 was restated by section 202(b) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1508). The comparable provision is 49 App.:1389(k)(1)(A)(ii), restated as section 41732(b)(1)(B).

In subsection (g), the word ''exemption'' is substituted for ''authorization'' and ''authority'' for clarity and consistency.

In subsection (g)(1), before clause (A), the words ''required'', ''a period'', and ''to the extent necessary'' are omitted as surplus. The word ''mail'' is omitted as being included in ''cargo''. In clause (B), before subclause (i), the words ''for example'' are omitted as surplus.

In subsection (g)(3), the words ''a period'' are omitted as surplus.

In subsection (h), the words ''The Secretary may act under subsections (d) and (f)(3)(B) of this section'' are added because of the restatement. The word ''notice'' does not appear in 49 App.:1386(b)(6) (words between 5th and 6th commas) but is made applicable to both of the restated source provisions for consistency with subchapter II of chapter 5 of title 5, United States Code. The words ''opportunity for a'' are added for consistency in the revised title.

PUB. L. 104–287

This amends 49:40109(c) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1105), to include in the cross-reference sections enacted after the cutoff date for the codification of title 49 as enacted by section 1 of the Act (Public Law 103–272, 108 Stat. 745), and to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–287, §5(65)(B), substituted ''sections 44909 and 46301(b)'' for ''section 46301(b)''.

Pub. L. 104–287, §5(65)(A), substituted ''chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714),'' for ''sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742,''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

AUTHORITY TO GRANT EXEMPTIONS TO GOVERNMENT AIRCRAFT

Pub. L. 103–411, §3(b), Oct. 25, 1994, 108 Stat. 4237, provided that:

''(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49,

United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section [amending section 40102 of this title].

''(2) REQUIREMENTS.—The Administrator may grant an exemption under paragraph (1) only if—

''(A) the Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government; and

''(B) the Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.''

§ 40110. General procurement authority

(a) GENERAL.—In carrying out this part, the Administrator of the Federal Aviation Administration—

(1) to the extent that amounts are available for obligation, may acquire services or, by condemnation or otherwise, an interest in property, including an interest in airspace immediately adjacent to and needed for airports and other air navigation facilities owned by the United States Government and operated by the Administrator;

(2) may dispose of an interest in property for adequate compensation; and

(3) may construct and improve laboratories and other test facilities.

(b) PURCHASE OF HOUSING UNITS.—

(1) AUTHORITY.—In carrying out this part, the Administrator may purchase a housing unit (including a condominium or a housing unit in a building owned by a cooperative) that is located outside the contiguous United States if the cost of the unit is $300,000 or less.

(2) ADJUSTMENTS FOR INFLATION.—For fiscal years beginning after September 30, 1997, the Administrator may adjust the dollar amount specified in paragraph (1) to take into account increases in local housing costs.

(3) CONTINUING OBLIGATIONS.—Notwithstanding section 1341 of title 31, the Administrator may purchase a housing unit under paragraph (1) even if there is an obligation thereafter to pay necessary and reasonable fees duly assessed upon such unit, including fees related to operation, maintenance, taxes, and insurance.

(4) CERTIFICATION TO CONGRESS.—The Administrator may purchase a housing unit under paragraph (1) only if, at least 30 days before completing the purchase, the Administrator transmits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(A) a description of the housing unit and its price;

(B) a certification that the price does not exceed the median price of housing units in the area; and

(C) a certification that purchasing the housing unit is the most cost-beneficial means of providing necessary accommodations in carrying out this part.

(5) PAYMENT OF FEES.—The Administrator may pay, when due, fees resulting from the purchase of a housing unit under this subsection from any amounts made available to the Administrator.

(c) DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration may—

(1) notwithstanding section 1341(a)(1) of title 31, lease an interest in property for not more than 20 years;

(2) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace;

(3) construct, or acquire an interest in, a public building (as defined in section 3301(a) of title 40) only under a delegation of authority from the Administrator of General Services;

(4) use procedures other than competitive procedures only when the property or services needed by the Administrator of the Federal Aviation Administration are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the Administrator; and

(5) dispose of property under subsection (a)(2) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under sections 121, 123, and 126 and chapter 5 of title 40.

(d) ACQUISITION MANAGEMENT SYSTEM.—

(1) IN GENERAL.—In consultation with such non-governmental experts in acquisition management systems as the Administrator may employ, and notwithstanding provisions of Federal acquisition law, the Administrator shall develop and implement an acquisition management system for the Administration that addresses the unique needs of the agency and, at a minimum, provides for—

(A) more timely and cost-effective acquisitions of equipment, services, property, and materials; and

(B) the resolution of bid protests and contract disputes related thereto, using consensual alternative dispute resolution techniques to the maximum extent practicable.

(2) APPLICABILITY OF FEDERAL ACQUISITION LAW.—The following provisions of Federal acquisition law shall not apply to the new acquisition management system developed and implemented pursuant to paragraph (1):

(A) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252–266).

(B) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(C) The Federal Acquisition Streamlining Act of 1994 (Public Law 103–355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system, the term ''executive agency'' is deemed to refer to the Federal Aviation Administration.

(D) The Small Business Act (15 U.S.C. 631 et seq.), except that all reasonable opportunities to be awarded contracts shall be provided to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

(E) The Competition in Contracting Act.

(F) Subchapter V of chapter 35 of title 31, relating to the procurement protest system.

(G) The Federal Acquisition Regulation and any laws not listed in subparagraphs (A) through (F) providing authority to promulgate regulations in the Federal Acquisition Regulation.

(3) CERTAIN PROVISIONS OF THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Notwithstanding paragraph (2)(B), section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall apply to the new acquisition management system developed and implemented under paragraph (1) with the following modifications:

(A) Subsections (f) and (g) shall not apply.

(B) Within 90 days after the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, the Administrator shall adopt definitions for the acquisition management system that are consistent with the purpose and intent of the Office of Federal Procurement Policy Act.

(C) After the adoption of those definitions, the criminal, civil, and administrative remedies provided under the Office of Federal Procurement Policy Act apply to the acquisition management system.

(D) In the administration of the acquisition management system, the Administrator may take adverse personnel action under section 27(e)(3)(A)(iv) of the Office of Federal Procurement Policy Act in accordance with the procedures contained in the Administration's personnel management system.

(4) ADJUDICATION OF CERTAIN BID PROTESTS AND CONTRACT DISPUTES.—A bid protest or contract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to sections 46102, 46104, 46105, 46106 and 46107 and shall be subject to judicial review under section 46110 and to section 504 of title 5.

(e) PROHIBITION ON RELEASE OF OFFEROR PROPOSALS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), a proposal in the possession or control of the Administrator may not be made available to any person under section 552 of title 5.

(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a proposal of an offeror the disclosure of which is authorized by the Administrator pursuant to procedures published in the Federal Register. The Administrator shall provide an opportunity for public comment on the procedures for a period of not less than 30 days beginning on the date of such publication in order to receive and consider the views of all interested parties on the procedures. The procedures shall not take effect before the 60th day following the date of such publication.

(3) PROPOSAL DEFINED.—In this subsection, the term ''proposal'' means information contained in or originating from any proposal, including a technical, management, or cost proposal, submitted by an offeror in response to the requirements of a solicitation for a competitive proposal.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1106; Pub. L. 103–429, § 6(48), (80), Oct. 31, 1994, 108 Stat. 4384, 4388; Pub. L. 104–264, title XII, § 1201, Oct. 9, 1996, 110 Stat. 3279; Pub. L. 106–181, title III, § 307(b), title VII, § 703, Apr. 5, 2000, 114 Stat. 125, 156; Pub. L. 107–217, § 3(n)(5), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 108–176, title II, §§ 222, 224(a), (b), Dec. 12, 2003, 117 Stat. 2527; Pub. L. 108–178, § 4(k), Dec. 15, 2003, 117 Stat. 2642.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40110(a)	49 App.:1344(a)(1) (less term of lease), (2) (words before 1st semicolon), (3).	Aug. 23, 1958, Pub. L. 85–726, § 303(a)–(d), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, § 51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, § 16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, § 112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, § 9118(a), 104 Stat. 1388–365.
40110(b)(1) ..	49 App.:1344(d).	
40110(b)(2)(A).	49 App.:1344(a)(1) (related to term of lease).	
40110(b)(2)(B).	49 App.:1344(b)(1).	
40110(b)(2)(C).	49 App.:1344(b)(2).	
40110(b)(2)(D).	49 App.:1344(c).	
40110(b)(2)(E).	49 App.:1344(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 747, § 303(g); added Oct. 31, 1992, Pub. L. 102–581, § 201(a), 106 Stat. 4890.
40110(b)(2)(F).	49 App.:1344(a)(2) (words after 1st semicolon).	

In this section, the word ''Administrator'' in section 303(a)–(d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''In carrying out this part'' are added for clarity. The words ''on behalf of the United States . . . where appropriate'' are omitted as surplus. In clause (1), the words ''made by the Congress'', ''by purchase, condemnation . . . or otherwise'', and ''easements through or other'' are omitted as surplus. In clause (2), the words ''by sale, lease, or otherwise'' and ''real or personal'' are omitted as surplus. In clause (3), the word ''renovate'' is omitted as surplus. The words ''and to purchase or otherwise acquire real property required therefor'' are omitted as surplus because of the authority of the Administrator to acquire real property under clause (1) of this subsection.

In subsection (b)(1), the words ''procedures other than competitive procedures'' are substituted for ''noncompetitive procedures'' for consistency with subsection (b)(2)(D) of this section and 41:253(f).

In subsection (b)(2)(B), the text of 49 App.:1344(b)(1) (words before semicolon) and the words ''easements through or other'' are omitted as surplus.

In subsection (b)(2)(C), the words ''by purchase, condemnation, or lease'' are omitted as surplus.

Subsection (b)(2)(E) is substituted for 49 App.:1344(g) to eliminate the cross-references to other laws and for clarity and is based on the text of 10:2304(c)(1).

PUB. L. 103–429

This amends 49:40110(a) to clarify the restatement of 49 App.:1344(a)(1)–(3) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1106).

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (d)(2)(A), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title III of the Act is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Tables.

The Office of Federal Procurement Policy Act, referred to in subsec. (d)(2)(B), (3)(B), (C), is Pub. L. 93–400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (§ 401 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 41 and Tables.

The Federal Acquisition Streamlining Act of 1994, referred to in subsec. (d)(2)(C), is Pub. L. 103–355, Oct. 13, 1994, 108 Stat. 3243. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 251 of Title 41, Public Contracts, and Tables.

The Small Business Act, referred to in subsec. (d)(2)(D), is Pub. L. 85–536, § 2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

The Competition in Contracting Act, referred to in subsec. (d)(2)(E), probably means the Competition in Contracting Act of 1984, which is title VII of Pub. L. 98–369, div. B, July 18, 1984, 98 Stat. 1175. For complete classification of this Act to the Code, see Short Title of 1984 Amendments note set out under section 251 of Title 41, Public Contracts, and Tables.

The date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (d)(3)(B), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–176, § 224(a), struck out par. (1), which related to the senior procurement executive, par. (2) designation before ''may—'', and subpar. (D) of par. (2), which related to use procedures other than competitive procedures, redesignated subpars. (A), (B), (C), (E), and (F) of par. (2) as pars. (1) to (5), respectively, and realigned margins.

Subsec. (d)(1). Pub. L. 108–176, § 224(b)(1), struck out '', not later than January 1, 1996,'' after ''shall develop and implement'', substituted ''provides for—'' for ''provides for more timely and cost-effective acquisitions of equipment and materials.'', and added subpars. (A) and (B).

Subsec. (d)(2)(C). Pub. L. 108–176, § 222, substituted ''(Public Law 103–355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system, the term 'executive agency' is deemed to refer to the Federal Aviation Administration.'' for ''(Public Law 103–355).''

Subsec. (d)(2)(G). Pub. L. 108–178, § 4(k)(3), substituted ''subparagraphs (A) through (F)'' for ''subparagraphs (A) through (G)''.

Pub. L. 108–178, § 4(k)(1), (2), redesignated subpar. (H) as (G) and struck out former subpar. (G) which read as follows: ''The Brooks Automatic Data Processing Act (40 U.S.C. 759).''

Subsec. (d)(2)(H). Pub. L. 108–178, § 4(k)(2), redesignated subpar. (H) as (G).

Subsec. (d)(4). Pub. L. 108–176, § 224(b)(2), added par. (4) and struck out heading and text of former par. (4). Text read as follows: ''This subsection shall take effect on April 1, 1996.''

2002—Subsec. (c)(2)(C). Pub. L. 107–217, § 3(n)(5)(A), substituted ''(as defined in section 3301(a) of title 40)'' for ''(as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612))''.

Subsec. (c)(2)(F). Pub. L. 107–217, § 3(n)(5)(B), substituted ''sections 121, 123, and 126 and chapter 5 of title 40'' for ''title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)''.

2000—Subsecs. (d), (e). Pub. L. 106–181 added subsecs. (d) and (e).

1996—Subsecs. (b), (c). Pub. L. 104–264 added subsec. (b) and redesignated former subsec. (b) as (c).

1994—Subsec. (a). Pub. L. 103–429, § 6(48), in introductory provisions, struck out ''may'' after ''Administration'', in par. (1), struck out ''acquire,'' before ''to the extent'' and substituted ''may acquire services or, by condemnation or otherwise,'' for ''services or'', and in pars. (2) and (3), inserted ''may'' after par. designation.

Subsec. (b)(2)(A). Pub. L. 103–429, § 6(80), inserted ''notwithstanding section 1341(a)(1) of title 31,'' before ''lease''.

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

FAA EVALUATION OF LONG-TERM CAPITAL LEASING

Pub. L. 106–181, title VII, § 704, Apr. 5, 2000, 114 Stat. 157, provided that:

''(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] may carry out a pilot program in fiscal years 2001 through 2003 to test and evaluate the benefits of long-term contracts for the leasing of aviation equipment and facilities.

''(b) PERIOD OF CONTRACTS.—Notwithstanding any other provision of law, the Administrator may enter into a contract under the program to lease aviation equipment or facilities for a period of greater than 5 years.

''(c) NUMBER OF CONTRACTS.—The Administrator may not enter into more that [than] 10 contracts under the program.

''(d) TYPES OF CONTRACTS.—The contracts to be evaluated under the program may include contracts for telecommunication services that are provided through the use of a satellite, requirements related to oceanic and air traffic control, air-to-ground radio communications, and air traffic control tower construction.''

ASSESSMENT OF ACQUISITION MANAGEMENT SYSTEM

Section 251 of Pub. L. 104–264 provided that: ''Not later than April 1, 1999, the Administrator [of the Federal Aviation Administration] shall employ outside ex-

perts to provide an independent evaluation of the effectiveness of the Administration's [Federal Aviation Administration] acquisition management system within 3 months after such date. The Administrator shall transmit a copy of the evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.''

Pub. L. 104–205, title III, § 351, Sept. 30, 1996, 110 Stat. 2979, provided that: ''Not later than December 31, 1997, the Administrator of the Federal Aviation Administration shall—

''(a) take such action as may be necessary to provide for an independent assessment of the acquisition management system of the Federal Aviation Administration that includes a review of any efforts of the Administrator in promoting and encouraging the use of full and open competition as the preferred method of procurement with respect to any contract that involves an amount greater than $50,000,000; and

''(b) submit to the Congress a report on the findings of that independent assessment: *Provided*, That for purposes of this section, the term 'full and open competition' has the meaning provided that term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).''

ACQUISITION MANAGEMENT SYSTEM FOR FEDERAL AVIATION ADMINISTRATION

Pub. L. 104–50, title III, § 348, Nov. 15, 1995, 109 Stat. 460, required the Administrator of the Federal Aviation Administration to develop and implement, not later than Jan. 1, 1996, an acquisition management system, exempt from specified federal procurement and acquisition laws, to provide for more timely and cost-effective acquisitions of equipment and materials, prior to repeal by Pub. L. 106–181, title III, § 307(d), Apr. 5, 2000, 114 Stat. 126.

ALTERNATIVE PROCUREMENT AND ACQUISITION PILOT PROGRAM

Pub. L. 103–355, title V, § 5063, Oct. 13, 1994, 108 Stat. 3356, provided that:

''(a) AUTHORITY.—The Secretary of Transportation may conduct a test of alternative and innovative procurement procedures in carrying out acquisitions for one of the modernization programs under the Airway Capital Investment Plan prepared pursuant to section 44501(b) of title 49, United States Code. In conducting such test, the Secretary shall consult with the Administrator for Federal Procurement Policy.

''(b) PILOT PROGRAM IMPLEMENTATION.—(1) The Secretary of Transportation should prescribe policies and procedures for the interaction of the program manager and the end user executive responsible for the requirement for the equipment acquired. Such policies and procedures should include provisions for enabling the end user executive to participate in acceptance testing.

''(2) Not later than 45 days after the date of enactment of this Act [Oct. 13, 1994], the Secretary of Transportation shall identify for the pilot program quantitative measures and goals for reducing acquisition management costs.

''(3) The Secretary of Transportation shall establish for the pilot program a review process that provides senior acquisition officials with reports on the minimum necessary data items required to ensure the appropriate expenditure of funds appropriated for the program and that—

''(A) contain essential information on program results at appropriate intervals, including the criteria to be used in measuring the success of the program; and

''(B) reduce data requirements from the current program review reporting requirements.

''(c) SPECIAL AUTHORITIES.—The authority provided by subsection (a) shall include authority for the Secretary of Transportation—

''(1) to apply any amendment or repeal of a provision of law made in this Act [see Short Title of 1994 Amendment note set out under section 251 of Title 41, Public Contracts] to the pilot program before the effective date of such amendment or repeal; and

''(2) to apply to a procurement of items other than commercial items under such program—

''(A) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

''(B) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

''(d) APPLICABILITY.—Subsection (c) applies with respect to—

''(1) a contract that is awarded or modified after the date occurring 45 days after the date of the enactment of this Act [Oct. 13, 1994]; and

''(2) a contract that is awarded before such date and is to be performed (or may be performed), in whole or in part, after such date.

''(e) PROCEDURES AUTHORIZED.—The test conducted under this section may include any of the following procedures:

''(1) Restriction of competitions to sources determined capable in a precompetition screening process, provided that the screening process affords all interested sources a fair opportunity to be considered.

''(2) Restriction of competitions to sources of preevaluated products, provided that the preevaluation process affords all interested sources a fair opportunity to be considered.

''(3) Alternative notice and publication requirements.

''(4) A process in which—

''(A) the competitive process is initiated by publication in the Commerce Business Daily, or by dissemination through FACNET, of a notice that—

''(i) contains a synopsis of the functional and performance needs of the executive agency conducting the test, and, for purposes of guidance only, other specifications; and

''(ii) invites any interested source to submit information or samples showing the suitability of its product for meeting those needs, together with a price quotation, or, if appropriate, showing the source's technical capability, past performance, product supportability, or other qualifications (including, as appropriate, information regarding rates and other cost-related factors);

''(B) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submissions of interested sources and, if the officials determine necessary, after consultation with those sources; and

''(C) a contract is awarded after a streamlined competition that is limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on the qualification-based factors included in an invitation to submit information pursuant to subparagraph (A).

''(f) WAIVER OF PROCUREMENT REGULATIONS.—(1) In conducting the test under this section, the Secretary of Transportation, with the approval of the Administrator for Federal Procurement Policy, may waive—

''(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

''(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to test procedures authorized by subsection (e).

''(2) The provisions of law referred to in paragraph (1) are as follows:

''(A) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

''(B) The following provisions of the Federal Property and Administrative Services Act of 1949:

''(i) Section 303 (41 U.S.C. 253).

''(ii) Section 303A (41 U.S.C. 253a).

''(iii) Section 303B (41 U.S.C. 253b).

''(iv) Section 303C (41 U.S.C. 253c).

''(C) The following provisions of the Office of Federal Procurement Policy Act:

''(i) Section 4(6) (41 U.S.C. 403(6)).

''(ii) Section 18 (41 U.S.C. 416).

''(g) DEFINITION.—In this section, the term 'commercial item' has the meaning provided that term in section 4(12) of the Office of Federal Procurement Policy Act [41 U.S.C. 403(12)].

''(h) EXPIRATION OF AUTHORITY.—The authority to conduct the test under subsection (a) and to award contracts under such test shall expire 4 years after the date of the enactment of this Act. Contracts entered into before such authority expires shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

''(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the test conducted pursuant to subsection (a).''

§ 40111. Multiyear procurement contracts for services and related items

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31, the Administrator of the Federal Aviation Administration may make a contract of not more than 5 years for the following types of services and items of supply related to those services for which amounts otherwise would be available for obligation only in the fiscal year for which appropriated:

(1) operation, maintenance, and support of facilities and installations.

(2) operation, maintenance, and modification of aircraft, vehicles, and other highly complex equipment.

(3) specialized training requiring high quality instructor skills, including training of pilots and aircrew members and foreign language training.

(4) base services, including ground maintenance, aircraft refueling, bus transportation, and refuse collection and disposal.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section only if the Administrator finds that—

(1) there will be a continuing requirement for the service consistent with current plans for the proposed contract period;

(2) providing the service will require a substantial initial investment in plant or equipment, or will incur a substantial contingent liability for assembling, training, or transporting a specialized workforce; and

(3) the contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

(c) CONSIDERATIONS.—When making a contract under this section, the Administrator shall be guided by the following:

(1) The part of the cost of a plant or equipment amortized as a cost of contract performance may not be more than the ratio between the period of contract performance and the anticipated useful commercial life (instead of physical life) of the plant or equipment, considering the location and specialized nature of the plant or equipment, obsolescence, and other similar factors.

(2) The Administrator shall consider the desirability of—

(A) obtaining an option to renew the contract for a reasonable period of not more than 3 years, at a price that does not include charges for nonrecurring costs already amortized; and

(B) reserving in the Administrator the right, on payment of the unamortized part of the cost of the plant or equipment, to take title to the plant or equipment under appropriate circumstances.

(d) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) an appropriation originally available for carrying out the contract;

(2) an appropriation currently available for procuring the type of service concerned and not otherwise obligated; or

(3) amounts appropriated for payments to end the contract.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1107.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40111(a)	49 App.:1344(e)(1).	Aug. 23, 1958, Pub. L. 85–726, § 303(e), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, § 51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, § 16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, § 112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, § 9118(a), 104 Stat. 1388–366.
40111(b)	49 App.:1344(e)(2).	
40111(c)	49 App.:1344(e)(3).	
40111(d)	49 App.:1344(e)(4).	

In this section, the word ''Administrator'' in section 303(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''periods of'' are omitted as surplus. In clause (3), the words ''training of'' are added for clarity. In clause (4), the word ''aircraft'' is substituted for ''in-plane'' for clarity.

In subsection (c)(2)(A), the words ''plant, equipment, and other'' are omitted as surplus.

In subsection (d), the words ''canceled or'' and ''cancellation or'' are omitted as being included in ''ended'' and ''ending'', respectively.

§ 40112. Multiyear procurement contracts for property

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31 and to the extent that amounts otherwise are available for obligation, the Administrator of the Federal Aviation Administration may make a contract of more than one but not more than 5 fiscal years to purchase property, except a contract to construct, alter, or make a major repair or improvement to real property.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section if the Administrator finds that—

(1) the contract will promote the safety or efficiency of the national airspace system and will result in reduced total contract costs;

(2) the minimum need for the property to be purchased is expected to remain substantially unchanged during the proposed contract period in terms of production rate, procurement rate, and total quantities;

(3) there is a reasonable expectation that throughout the proposed contract period the Administrator will request appropriations for the contract at the level required to avoid cancellation;

(4) there is a stable design for the property to be acquired and the technical risks associated with the property are not excessive; and

(5) the estimates of the contract costs and the anticipated savings from the contract are realistic.

(c) REGULATIONS.—The Administrator shall prescribe regulations for acquiring property under this section to promote the use of contracts under this section in a way that will allow the most efficient use of those contracts. The regulations may provide for a cancellation provision in the contract to the extent the provision is necessary and in the best interest of the United States. The provision may include consideration of recurring and nonrecurring costs of the contractor associated with producing the item to be delivered under the contract. The regulations shall provide that, to the extent practicable—

(1) to broaden the aviation industrial base—

(A) a contract under this section shall be used to seek, retain, and promote the use under that contract of subcontractors, vendors, or suppliers; and

(B) on accrual of a payment or other benefit accruing on a contract under this section to a subcontractor, vendor, or supplier participating in the contract, the payment or benefit shall be delivered in the most expeditious way practicable; and

(2) this section and regulations prescribed under this section may not be carried out in a way that precludes or curtails the existing ability of the Administrator to provide for—

(A) competition in producing items to be delivered under a contract under this section; or

(B) ending a prime contract when performance is deficient with respect to cost, quality, or schedule.

(d) CONTRACT PROVISIONS.—(1) A contract under this section may—

(A) be used for the advance procurement of components, parts, and material necessary to manufacture equipment to be used in the national airspace system;

(B) provide that performance under the contract after the first year is subject to amounts being appropriated; and

(C) contain a negotiated priced option for varying the number of end items to be procured over the period of the contract.

(2) If feasible and practicable, an advance procurement contract may be made to achieve economic-lot purchases and more efficient production rates.

(e) CANCELLATION PAYMENT AND NOTICE OF CANCELLATION CEILING.—(1) If a contract under this section provides that performance is subject to an appropriation being made, it also may provide for a cancellation payment to be made to the contractor if the appropriation is not made.

(2) Before awarding a contract under this section containing a cancellation ceiling of more than $100,000,000, the Administrator shall give written notice of the proposed contract and cancellation ceiling to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The contract may not be awarded until the end of the 30-day period beginning on the date of the notice.

(f) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) an appropriation originally available for carrying out the contract;

(2) an appropriation currently available for procuring the type of property concerned and not otherwise obligated; or

(3) amounts appropriated for payments to end the contract.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1108; Pub. L. 104–106, div. E, title LVI, § 5606, Feb. 10, 1996, 110 Stat. 700; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40112(a)	49 App.:1344(f)(1) (words before 4th comma), (6), (7) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 303(f), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, § 51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, § 16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, § 112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, § 9118(a), 104 Stat. 1388–367.
40112(b)	49 App.:1344(f)(1) (words after 4th comma).	
40112(c)	49 App.:1344(f)(2).	
40112(d)(1)(A).	49 App.:1344(f)(4) (words before 3d comma).	
40112(d)(1)(B).	49 App.:1344(f)(7) (last sentence words before ''and (if'')).	
40112(d)(1)(C).	49 App.:1344(f)(8).	
40112(d)(2) ..	49 App.:1344(f)(4) (words after 3d comma).	
40112(e)(1) ..	49 App.:1344(f)(7) (last sentence words after ''of funds'').	
40112(e)(2) ..	49 App.:1344(f)(3).	
40112(f)	49 App.:1344(f)(5).	

In this section, the word ''Administrator'' in section 303(f) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), the reference in 49 App.:1344(f)(7) to a contract for the purchase of services is omitted as surplus because 49 App.:1344(f)(1) states that the subsection is concerned only with contracts for the purchase of property.

In subsection (b)(5), the word ''savings'' is substituted for ''cost avoidance'' for clarity.

In subsection (c), before clause (1), the word ''both'' is omitted as surplus. In clause (1)(A), the words ''in such a manner as'' and ''companies that are'' are omitted as surplus. In clause (1)(B), the words ''accruing on'' are substituted for ''under'' for clarity. The words ''subcontractor'' and ''contract'' are substituted for ''subcontract'' and ''contractor'', respectively, to correct errors in the source provisions being restated.

In subsection (d)(1)(B), the words ''after the first year'' are substituted for ''during the second and subsequent years of the contract'' to eliminate unnecessary words.

In subsection (e)(2), the words ''a clause setting forth'' are omitted as surplus.

In subsection (f), the words ''canceled or'' and ''cancellation or'' are omitted as being included in ''ended'' and ''ending'', respectively.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106 struck out ''or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies'' after ''improvement to real property''.

Subsec. (e)(2). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104–106, Feb. 10, 1996, 110 Stat. 702.

§ 40113. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may take action the Secretary, Under Secretary, or Administrator, as appropriate, considers necessary to carry out this part, including conducting investigations, prescribing regulations, standards, and procedures, and issuing orders.

(b) HAZARDOUS MATERIAL.—In carrying out this part, the Secretary has the same authority to regulate the transportation of hazardous material by air that the Secretary has under section 5103 of this title. However, this subsection does not prohibit or regulate the transportation of a firearm (as defined in section 232 of title 18) or ammunition for a firearm, when transported by an individual for personal use.

(c) GOVERNMENTAL ASSISTANCE.—The Secretary (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may use the assistance of the Administrator of the National Aeronautics and Space Administration and any research or technical department, agency, or instrumentality of the United States Government on matters related to aircraft fuel and oil, and to the design, material, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities. Each department, agency, and instrumentality may conduct scientific and technical research, investigations, and tests necessary to assist the Secretary or Administrator of the Federal Aviation Administration in carrying out this part. This part does not authorize duplicating laboratory research activities of a department, agency, or instrumentality.

(d) INDEMNIFICATION.—The Under Secretary of Transportation for Security or the Administrator of the Federal Aviation Administration may indemnify an officer or employee of the Transportation Security Administration or Federal Aviation Administration, as the case may be, against a claim or judgment arising out of an act that the Under Secretary or Administrator, as the case may be, decides was committed within the scope of the official duties of the officer or employee.

(e) ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.—

(1) SAFETY-RELATED TRAINING AND OPERATIONAL SERVICES.—The Administrator may provide safety-related training and operational services to foreign aviation authorities with or without reimbursement, if the Administrator determines that providing such services promotes aviation safety. To the extent practicable, air travel reimbursed under this subsection shall be conducted on United States air carriers.

(2) REIMBURSEMENT SOUGHT.—The Administrator shall actively seek reimbursement for services provided under this subsection from foreign aviation authorities capable of providing such reimbursement.

(3) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this section shall be credited to the appropriation from which the expenses were incurred in providing such services.

(4) REPORTING.—Not later than December 31, 1995, and annually thereafter, the Administrator shall transmit to Congress a list of the foreign aviation authorities to which the Administrator provided services under this subsection in the preceding fiscal year. Such list shall specify the dollar value of such services and any reimbursement received for such services.

(f) APPLICATION OF CERTAIN REGULATIONS TO ALASKA.—In amending title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1110; Pub. L. 103–305, title II, § 202, Aug. 23, 1994, 108 Stat. 1582; Pub. L. 106–181, title I, § 156(a), Apr. 5, 2000, 114 Stat. 89; Pub. L. 107–71, title I, § 140(c), Nov. 19, 2001, 115 Stat. 641.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40113(a)	49 App.:1324(a). 49 App.:1354(a).	Aug. 23, 1958, Pub. L. 85–726, §§ 204(a), 313(a), 72 Stat. 743, 752.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40113(b)	49 App.:1472(h)(1), (3).	Aug. 23, 1958, Pub. L. 85–726, §902(h)(1), (3), 72 Stat. 785; restated Jan. 3, 1975, Pub. L. 93–633, §113(c), 88 Stat. 2162, 2163.
40113(c)	49 App.:1505.	Aug. 23, 1958, Pub. L. 85–726, §1105, 72 Stat. 798; Oct. 15, 1962, Pub. L. 87–810, §3, 76 Stat. 921.
	49 App.:1655(c)(1).	
40113(d)	49 App.:1354(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §313(e); added Dec. 30, 1987, Pub. L. 100–223, §205, 101 Stat. 1521.

In subsections (a), (c), and (d), the word ''Administrator'' in sections 313(a) and (e) and 1105 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752, 798) is retained on authority of 49:106(g).

Subsection (a) is substituted for 49 App.:1324(a) and 1354(a) to eliminate unnecessary words. The word ''standards'' is added for consistency.

In subsection (b), the words ''his responsibilities under'' and ''safe'' are omitted as surplus.

In subsection (c), the words ''department, agency, and instrumentality'' are substituted for ''agency'' and ''governmental agency'' for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1505 (2d, 3d sentences) is omitted as superseded by 49 App.:1903(b), restated in sections 1105, 1110, and 1111 of the revised title. The word ''existing'' is omitted as surplus.

In subsection (d), the text of 49 App.:1354(e) (last sentence) is omitted because of 49:322(a).

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71, §140(c)(1), inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' before ''the Administrator of the Federal Aviation Administration'' and substituted '', Under Secretary, or Administrator'' for ''or Administrator''.

Subsec. (d). Pub. L. 107–71, §140(c)(2), inserted ''Under Secretary of Transportation for Security or the'' after ''The'' and substituted ''employee of the Transportation Security Administration or Federal Aviation Administration, as the case may be,'' for ''employee of the Administration'' and ''the Under Secretary or Administrator, as the case may be, decides'' for ''the Administrator decides''.

2000—Subsec. (f). Pub. L. 106–181 added subsec. (f).

1994—Subsec. (e). Pub. L. 103–305 added subsec. (e).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ADMINISTRATIVE SERVICES FRANCHISE FUND

Pub. L. 104–205, title I, Sept. 30, 1996, 110 Stat. 2957, provided in part that: ''There is hereby established in the Treasury a fund, to be available without fiscal year limitation, for the costs of capitalizing and operating such administrative services as the FAA Administrator determines may be performed more advantageously as centralized services, including accounting, international training, payroll, travel, duplicating, multimedia and information technology services: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made prior to the current year for the purpose of providing capital shall be used to capitalize such fund: *Provided further*, That such fund shall be paid in advance from funds available to the FAA and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of Automated Data Processing (ADP) software and systems (either required or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the FAA Administrator: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of FAA financial management, ADP, and support systems: *Provided further*, That no later than thirty days after the end of each fiscal year, amounts in excess of this reserve limitation shall be transferred to miscellaneous receipts in the Treasury.''

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

Pub. L. 106–69, title III, §337, Oct. 9, 1999, 113 Stat. 1022, which provided that none of the funds in Pub. L. 106–69 were to be available for activities under the Aircraft Purchase Loan Guarantee Program during fiscal year 2000, was from the Department of Transportation and Related Agencies Appropriations Act, 2000, and was not repeated in subsequent appropriations acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105–277, div. A, §101(g) [title I], Oct. 21, 1998, 112 Stat. 2681–439, 2681–446.

Pub. L. 105–66, title I, Oct. 27, 1997, 111 Stat. 1431.

Pub. L. 104–205, title I, Sept. 30, 1996, 110 Stat. 2957.

Pub. L. 104–50, title I, Nov. 15, 1995, 109 Stat. 442.

Pub. L. 103–331, title I, Sept. 30, 1994, 108 Stat. 2476.

Pub. L. 103–122, title I, Oct. 27, 1993, 107 Stat. 1205.

Pub. L. 102–388, title I, Oct. 6, 1992, 106 Stat. 1527.

Pub. L. 102–143, title I, Oct. 28, 1991, 105 Stat. 924.

Pub. L. 101–516, title I, Nov. 5, 1990, 104 Stat. 2161.

Pub. L. 101–164, title I, Nov. 21, 1989, 103 Stat. 1076.

Pub. L. 100–457, title I, Sept. 30, 1988, 102 Stat. 2131.

Pub. L. 100–202, §101(*l*) [title I], Dec. 22, 1987, 101 Stat. 1329–358, 1329–363.

Pub. L. 99–500, §101(*l*) [H.R. 5205, title I], Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, §101(*l*) [H.R. 5205, title I], Oct. 30, 1986, 100 Stat. 3341–308.

Pub. L. 99–190, §101(e) [title I], Dec. 19, 1985, 99 Stat. 1267, 1273.

Pub. L. 98–473, title I, §3101(i) [title I], Oct. 12, 1984, 98 Stat. 1944, 1950.

Pub. L. 98–78, title I, Aug. 15, 1983, 97 Stat. 458.

Pub. L. 98–63, title I, July 30, 1983, 97 Stat. 339.

§ 40114. Reports and records

(a) WRITTEN REPORTS.—(1) Except as provided in this part, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by

the Administrator) shall make a written report of each proceeding and investigation under this part in which a formal hearing was held and shall provide a copy to each party to the proceeding or investigation. The report shall include the decision, conclusions, order, and requirements of the Secretary or Administrator as appropriate.

(2) The Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall have all reports, orders, decisions, and regulations the Secretary or Administrator, as appropriate, issues or prescribes published in the form and way best adapted for public use. A publication of the Secretary or Administrator is competent evidence of its contents.

(b) PUBLIC RECORDS.—Except as provided in subpart II of this part, copies of tariffs and arrangements filed with the Secretary under subpart II, and the statistics, tables, and figures contained in reports made to the Secretary under subpart II, are public records. The Secretary is the custodian of those records. A public record, or a copy or extract of it, certified by the Secretary under the seal of the Department of Transportation is competent evidence in an investigation by the Secretary and in a judicial proceeding.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1110.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40114(a)(1) ..	49 App.:1324(d) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, §§204(d), 313(b), 1103, 72 Stat. 743, 753, 797.
	49 App.:1354(b) (1st, 2d sentences).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40114(a)(2) ..	49 App.:1324(d) (3d, last sentences).	
	49 App.:1354(b) (3d, last sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
40114(b)	49 App.:1503.	
	49 App.:1551(b)(1)(E).	

In subsection (a), the word ''Administrator'' in section 313(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g).

In subsection (a)(1), the words ''otherwise'', ''requirement in the premises'', and ''shall be entered of record'' are omitted as surplus.

In subsection (a)(2), the word ''rules'' is omitted as being synonymous with ''regulations''. The word ''prescribes'' is added for consistency in the revised title and with other titles of the United States Code. The words ''under this chapter'' and ''information and'' are omitted as surplus. The words ''A publication of the Secretary or Administrator is competent evidence of its contents'' is substituted for 49 App.:1324(d) (last sentence) to eliminate unnecessary words and for consistency.

In subsection (b), the words ''otherwise'', ''all contracts, agreements, understandings, and'', ''annual or other'', ''of air carriers and other persons'', and ''preserved as'' are omitted as surplus. The last sentence is substituted for 49 App.:1503 (words after 7th comma) to eliminate unnecessary words and for consistency.

§ 40115. Withholding information

(a) OBJECTIONS TO DISCLOSURE.—(1) A person may object to the public disclosure of information—

(A) in a record filed under this part; or

(B) obtained under this part by the Secretary of Transportation or State or the United States Postal Service.

(2) An objection must be in writing and must state the reasons for the objection. The Secretary of Transportation or State or the Postal Service shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information would—

(A) prejudice the United States Government in preparing and presenting its position in international negotiations; or

(B) have an adverse effect on the competitive position of an air carrier in foreign air transportation.

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1111.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40115	49 App.:1504.	Aug. 23, 1958, Pub. L. 85–726, §1104, 72 Stat. 797; restated Oct. 24, 1978, Pub. L. 95–504, §39, 92 Stat. 1743; Feb. 15, 1980, Pub. L. 96–192, §19, 94 Stat. 43.

In subsection (a)(1)(B), the words ''the Secretary of Transportation or State or the United States Postal Service'' are substituted for ''the Board, the Secretary of State, or the Secretary of Transportation'' because under 49 App.:1551 the duties of the Civil Aeronautics Board were transferred to the Secretary of Transportation and the Postal Service.

In subsection (a)(2), the words ''shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information'' are substituted for ''shall be withheld from public disclosure by the Board, the Secretary of State or the Secretary of Transportation'' for clarity and because of the restatement.

In subsection (b), the words ''The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law'' are omitted as surplus.

§ 40116. State taxation

(a) DEFINITION.—In this section, ''State'' includes the District of Columbia, a territory or possession of the United States, and a political authority of at least 2 States.

(b) PROHIBITIONS.—Except as provided in subsection (c) of this section and section 40117 of this title, a State, a political subdivision of a State, and any person that has purchased or leased an airport under section 47134 of this title may not levy or collect a tax, fee, head charge, or other charge on—

(1) an individual traveling in air commerce;

(2) the transportation of an individual traveling in air commerce;

(3) the sale of air transportation; or

(4) the gross receipts from that air commerce or transportation.

(c) AIRCRAFT TAKING OFF OR LANDING IN STATE.—A State or political subdivision of a State may levy or collect a tax on or related to a flight of a commercial aircraft or an activity or service on the aircraft only if the aircraft takes off or lands in the State or political subdivision as part of the flight.

(d) UNREASONABLE BURDENS AND DISCRIMINATION AGAINST INTERSTATE COMMERCE.—(1) In this subsection—

(A) ''air carrier transportation property'' means property (as defined by the Secretary of Transportation) that an air carrier providing air transportation owns or uses.

(B) ''assessment'' means valuation for a property tax levied by a taxing district.

(C) ''assessment jurisdiction'' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(D) ''commercial and industrial property'' means property (except transportation property and land used primarily for agriculture or timber growing) devoted to a commercial or industrial use and subject to a property tax levy.

(2)(A) A State, political subdivision of a State, or authority acting for a State or political subdivision may not do any of the following acts because those acts unreasonably burden and discriminate against interstate commerce:

(i) assess air carrier transportation property at a value that has a higher ratio to the true market value of the property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(ii) levy or collect a tax on an assessment that may not be made under clause (i) of this subparagraph.

(iii) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate greater than the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(iv) levy or collect a tax, fee, or charge, first taking effect after August 23, 1994, exclusively upon any business located at a commercial service airport or operating as a permittee of such an airport other than a tax, fee, or charge wholly utilized for airport or aeronautical purposes.

(B) Subparagraph (A) of this paragraph does not apply to an in lieu tax completely used for airport and aeronautical purposes.

(e) OTHER ALLOWABLE TAXES AND CHARGES.—Except as provided in subsection (d) of this section, a State or political subdivision of a State may levy or collect—

(1) taxes (except those taxes enumerated in subsection (b) of this section), including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and

(2) reasonable rental charges, landing fees, and other service charges from aircraft operators for using airport facilities of an airport owned or operated by that State or subdivision.

(f) PAY OF AIR CARRIER EMPLOYEES.—(1) In this subsection—

(A) ''pay'' means money received by an employee for services.

(B) ''State'' means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(C) an employee is deemed to have earned 50 percent of the employee's pay in a State or political subdivision of a State in which the scheduled flight time of the employee in the State or subdivision is more than 50 percent of the total scheduled flight time of the employee when employed during the calendar year.

(2) The pay of an employee of an air carrier having regularly assigned duties on aircraft in at least 2 States is subject to the income tax laws of only the following:

(A) the State or political subdivision of the State that is the residence of the employee.

(B) the State or political subdivision of the State in which the employee earns more than 50 percent of the pay received by the employee from the carrier.

(3) Compensation paid by an air carrier to an employee described in subsection (a) in connection with such employee's authorized leave or other authorized absence from regular duties on the carrier's aircraft in order to perform services on behalf of the employee's airline union shall be subject to the income tax laws of only the following:

(A) The State or political subdivision of the State that is the residence of the employee.

(B) The State or political subdivision of the State in which the employee's scheduled flight time would have been more than 50 percent of the employee's total scheduled flight time for the calendar year had the employee been engaged full time in the performance of regularly assigned duties on the carrier's aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1111; Pub. L. 103–305, title I, § 112(e), title II, § 208, Aug. 23, 1994, 108 Stat. 1576, 1588; Pub. L. 104–264, title I, § 149(b), Oct. 9, 1996, 110 Stat. 3226; Pub. L. 104–287, § 5(66), Oct. 11, 1996, 110 Stat. 3395.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40116(a)	49 App.:1513(d)(2)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(d); added Sept. 3, 1982, Pub. L. 97–248, § 532(b), 96 Stat. 701.
	49 App.:1513(f) (words in parentheses).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(f); added Nov. 5, 1990, Pub. L. 101–508, § 9125, 104 Stat. 1388–370.
40116(b)	49 App.:1513(a).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(a); added June 18, 1973, Pub. L. 93–44, § 7(a), 87 Stat. 90; Nov. 5, 1990, Pub. L. 101–508, § 9110(1), 104 Stat. 1388–357.
40116(c)	49 App.:1513(f) (less words in parentheses).	

HISTORICAL AND REVISION NOTES—CONTINUED

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40116(d)	49 App.:1513(d)(1), (2)(A)–(D), (3).	
40116(e)	49 App.:1513(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(b); added June 18, 1973, Pub. L. 93–44, § 7(a), 87 Stat. 90; Sept. 3, 1982, Pub. L. 97–248, § 532(a), 96 Stat. 701.
40116(f) (1)(A), (B).	49 App.:1512(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1112; added Dec. 23, 1970, Pub. L. 91–569, § 4(a), 84 Stat. 1502; restated Feb. 18, 1980, Pub. L. 96–193, § 402, 94 Stat. 57.
40116(f) (1)(C).	49 App.:1512(b).	
40116(f)(2) ...	49 App.:1512(a).	

Subsection (a) is made applicable to subsections (b) and (e) of this section to avoid having to repeat the term being defined. In subsection (a), the words ''Commonwealth of Puerto Rico, the Virgin Islands, Guam'' are omitted as surplus because of the definition of ''territory or possession of the United States'' in section 40102(a) of the revised title. The word ''authority'' is substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), reference to 49 App.:1513(f), restated as subsection (c) of this section, is added for clarity. The words ''directly or indirectly'' are omitted as surplus. The text of 49 App.:1513(a) (words after ''subsection (e) and'') is omitted as surplus.

In subsections (d)(2)(A), before clause (i), and (f)(1)(C) and (2), the word ''political'' is added for consistency in the revised title and with other titles of the Code.

In subsection (f)(1)(A), the word ''pay'' is substituted for ''compensation'' for consistency in the revised title and with chapter 55 of title 5, United States Code. The words ''rendered by the employee in the performance of his duties and shall include wages and salary'' are omitted as surplus.

In subsection (f)(1)(B), the words ''means a State of the United States'' are substituted for ''also means'' for clarity.

In subsection (f)(1)(C), the words ''of a State'' are added for clarity.

In subsection (f)(2), before clause (A), the words ''as such an employee'' are omitted as surplus.

PUB. L. 104–287

This amends 49:40116(d)(2)(A)(iv) to conform to the style of title 49 and to set out the effective date for this clause.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–264, in introductory provisions, substituted ''a State, a'' for ''a State or'' and inserted '', and any person that has purchased or leased an airport under section 47134 of this title'' after ''of a State''.

Subsec. (d)(2)(A)(iv). Pub. L. 104–287, which directed substitution of ''August 23, 1994'' for ''the date of enactment of this clause'', was executed by making the substitution for ''the date of the enactment of this clause'' to reflect the probable intent of Congress.

Pub. L. 104–287 substituted ''levy'' for ''Levy''.

1994—Subsec. (d)(2)(A)(iv). Pub. L. 103–305, § 112(e), added cl. (iv).

Subsec. (f)(3). Pub. L. 103–305, § 208, added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 40117. Passenger facility fees

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRPORT, COMMERCIAL SERVICE AIRPORT, AND PUBLIC AGENCY.—The terms ''airport'', ''commercial service airport'', and ''public agency'' have the meaning those terms have under section 47102.

(2) ELIGIBLE AGENCY.—The term ''eligible agency'' means a public agency that controls a commercial service airport.

(3) ELIGIBLE AIRPORT-RELATED PROJECT.—The term ''eligible airport-related project'' means any of the following projects:

(A) A project for airport development or airport planning under subchapter I of chapter 471.

(B) A project for terminal development described in section 47110(d).

(C) A project for costs of terminal development referred to in subparagraph (B) incurred after August 1, 1986, at an airport that did not have more than .25 percent of the total annual passenger boardings in the United States in the most recent calendar year for which data is available and at which total passenger boardings declined by at least 16 percent between calendar year 1989 and calendar year 1997.

(D) A project for airport noise capability planning under section 47505.

(E) A project to carry out noise compatibility measures eligible for assistance under section 47504, whether or not a program for those measures has been approved under section 47504.

(F) A project for constructing gates and related areas at which passengers board or exit aircraft. In the case of a project required to enable additional air service by an air carrier with less than 50 percent of the annual passenger boardings at an airport, the project for constructing gates and related areas may include structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door and roof systems, building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service), and aircraft fueling facilities adjacent to the gate.

(G) A project for converting vehicles and ground support equipment used at a commercial service airport to low-emission technology (as defined in section 47102) or to use cleaner burning conventional fuels, retrofitting of any such vehicles or equipment that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology or use cleaner burning fuels if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result

in an airport receiving appropriate emission credits as described in section 47139.

(4) GROUND SUPPORT EQUIPMENT.—The term ''ground support equipment'' means service and maintenance equipment used at an airport to support aeronautical operations and related activities.

(5) PASSENGER FACILITY FEE.—The term ''passenger facility fee'' means a fee imposed under this section.

(6) PASSENGER FACILITY REVENUE.—The term ''passenger facility revenue'' means revenue derived from a passenger facility fee.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may authorize under this section an eligible agency to impose a passenger facility fee of $1, $2, or $3 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, to be carried out in connection with the airport or any other airport the agency controls.

(2) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not regulate or prohibit the imposition or collection of a passenger facility fee or the use of the passenger facility revenue.

(3) A passenger facility fee may be imposed on a passenger of an air carrier or foreign air carrier originating or connecting at the commercial service airport that the agency controls.

(4) In lieu of authorizing a fee under paragraph (1), the Secretary may authorize under this section an eligible agency to impose a passenger facility fee of $4.00 or $4.50 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, if the Secretary finds—

(A) in the case of an airport that has more than .25 percent of the total number of annual boardings in the United States, that the project will make a significant contribution to improving air safety and security, increasing competition among air carriers, reducing current or anticipated congestion, or reducing the impact of aviation noise on people living near the airport; and

(B) that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103.

(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility fee under this section for a project described in subsection (a)(3)(G) with respect to a vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.

(6) DEBT SERVICE FOR CERTAIN PROJECTS.—In addition to the uses specified in paragraphs (1) and (4), the Secretary may authorize a passenger facility fee imposed under paragraph (1) or (4) to be used for making payments for debt service on indebtedness incurred to carry out at the airport a project that is not an eligible airport-related project if the Secretary determines that such use is necessary due to the financial need of the airport.

(c) APPLICATIONS.—(1) An eligible agency must submit to the Secretary an application for authority to impose a passenger facility fee. The application shall contain information and be in the form that the Secretary may require by regulation.

(2) Before submitting an application, the eligible agency must provide reasonable notice to, and an opportunity for consultation with, air carriers and foreign air carriers operating at the airport. The Secretary shall prescribe regulations that define reasonable notice and contain at least the following requirements:

(A) The agency must provide written notice of individual projects being considered for financing by a passenger facility fee and the date and location of a meeting to present the projects to air carriers and foreign air carriers operating at the airport.

(B) Not later than 30 days after written notice is provided under subparagraph (A) of this paragraph, each air carrier and foreign air carrier operating at the airport must provide to the agency written notice of receipt of the notice. Failure of a carrier to provide the notice may be deemed certification of agreement with the project by the carrier under subparagraph (D) of this paragraph.

(C) Not later than 45 days after written notice is provided under subparagraph (A) of this paragraph, the agency must conduct a meeting to provide air carriers and foreign air carriers with descriptions of projects and justifications and a detailed financial plan for projects.

(D) Not later than 30 days after the meeting, each air carrier and foreign air carrier must provide to the agency certification of agreement or disagreement with projects (or total plan for the projects). Failure to provide the certification is deemed certification of agreement with the project by the carrier. A certification of disagreement is void if it does not contain the reasons for the disagreement.

(E) The agency must include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).

(F) For the purpose of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term ''significant business interest'' means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior

calendar year, or provides scheduled service at the airport.

(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies that may be affected. The public notice may include—

(i) publication in local newspapers of general circulation;

(ii) publication in other local media; and

(iii) posting the notice on the agency's Internet website.

(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B).

(4) After receiving an application, the Secretary may provide notice and an opportunity to air carriers, foreign air carriers, and other interested persons to comment on the application. The Secretary shall make a final decision on the application not later than 120 days after receiving it.

(d) LIMITATIONS ON APPROVING APPLICATIONS.—The Secretary may approve an application that an eligible agency has submitted under subsection (c) of this section to finance a specific project only if the Secretary finds, based on the application, that—

(1) the amount and duration of the proposed passenger facility fee will result in revenue (including interest and other returns on the revenue) that is not more than the amount necessary to finance the specific project;

(2) each project is an eligible airport-related project that will—

(A) preserve or enhance capacity, safety, or security of the national air transportation system;

(B) reduce noise resulting from an airport that is part of the system; or

(C) provide an opportunity for enhanced competition between or among air carriers and foreign air carriers;

(3) the application includes adequate justification for each of the specific projects; and

(4) in the case of an application to impose a fee of more than $3.00 for an eligible surface transportation or terminal project, the agency has made adequate provision for financing the airside needs of the airport, including runways, taxiways, aprons, and aircraft gates.

(e) LIMITATIONS ON IMPOSING FEES.—(1) An eligible agency may impose a passenger facility fee only—

(A) if the Secretary approves an application that the agency has submitted under subsection (c) of this section; and

(B) subject to terms the Secretary may prescribe to carry out the objectives of this section.

(2) A passenger facility fee may not be collected from a passenger—

(A) for more than 2 boardings on a one-way trip or a trip in each direction of a round trip;

(B) for the boarding to an eligible place under subchapter II of chapter 417 of this title for which essential air service compensation is paid under subchapter II;

(C) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flier award coupon without monetary payment;

(D) on flights, including flight segments, between 2 or more points in Hawaii;

(E) in Alaska aboard an aircraft having a seating capacity of less than 60 passengers; and

(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense.

(f) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—(1) A contract between an air carrier or foreign air carrier and an eligible agency made at any time may not impair the authority of the agency to impose a passenger facility fee or to use the passenger facility revenue as provided in this section.

(2) A project financed with a passenger facility fee may not be subject to an exclusive long-term lease or use agreement of an air carrier or foreign air carrier, as defined by regulations of the Secretary.

(3) A lease or use agreement of an air carrier or foreign air carrier related to a project whose construction or expansion was financed with a passenger facility fee may not restrict the eligible agency from financing, developing, or assigning new capacity at the airport with passenger facility revenue.

(g) TREATMENT OF REVENUE.—(1) Passenger facility revenue is not airport revenue for purposes of establishing a price under a contract between an eligible agency and an air carrier or foreign air carrier.

(2) An eligible agency may not include in its price base the part of the capital costs of a project paid for by using passenger facility revenue to establish a price under a contract between the agency and an air carrier or foreign air carrier.

(3) For a project for terminal development, gates and related areas, or a facility occupied or used by at least one air carrier or foreign air carrier on an exclusive or preferential basis, a price payable by an air carrier or foreign air carrier using the facilities must at least equal the price paid by an air carrier or foreign air carrier using a similar facility at the airport that was not financed with passenger facility revenue.

(4) Passenger facility revenues that are held by an air carrier or an agent of the carrier after collection of a passenger facility fee constitute a trust fund that is held by the air carrier or agent for the beneficial interest of the eligible agency imposing the fee. Such carrier or agent holds neither legal nor equitable interest in the

passenger facility revenues except for any handling fee or retention of interest collected on unremitted proceeds as may be allowed by the Secretary.

(h) COMPLIANCE.—(1) As necessary to ensure compliance with this section, the Secretary shall prescribe regulations requiring recordkeeping and auditing of accounts maintained by an air carrier or foreign air carrier and its agent collecting a passenger facility fee and by the eligible agency imposing the fee.

(2) The Secretary periodically shall audit and review the use by an eligible agency of passenger facility revenue. After review and a public hearing, the Secretary may end any part of the authority of the agency to impose a passenger facility fee to the extent the Secretary decides that the revenue is not being used as provided in this section.

(3) The Secretary may set off amounts necessary to ensure compliance with this section against amounts otherwise payable to an eligible agency under subchapter I of chapter 471 of this title if the Secretary decides a passenger facility fee is excessive or that passenger facility revenue is not being used as provided in this section.

(i) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations—

(1) may prescribe the time and form by which a passenger facility fee takes effect;

(2) shall—

(A) require an air carrier or foreign air carrier and its agent to collect a passenger facility fee that an eligible agency imposes under this section;

(B) establish procedures for handling and remitting money collected;

(C) ensure that the money, less a uniform amount the Secretary determines reflects the average necessary and reasonable expenses (net of interest accruing to the carrier and agent after collection and before remittance) incurred in collecting and handling the fee, is paid promptly to the eligible agency for which they are collected; and

(D) require that the amount collected for any air transportation be noted on the ticket for that air transportation; and

(3) may permit an eligible agency to request that collection of a passenger facility fee be waived for—

(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not more than one percent of the total number of passengers enplaned annually at the airport at which the fee is imposed; or

(B) passengers enplaned on a flight to an airport—

(i) that has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; or

(ii) in a community which has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.

(j) LIMITATION ON CERTAIN ACTIONS.—A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not tax, regulate, or prohibit or otherwise attempt to control in any manner, the imposition or collection of a passenger facility fee or the use of the revenue from the passenger facility fee.

(k) COMPETITION PLANS.—

(1) IN GENERAL.—Beginning in fiscal year 2001, no eligible agency may impose a passenger facility fee under this section with respect to a covered airport (as such term is defined in section 47106(f)) unless the agency has submitted to the Secretary a written competition plan in accordance with such section. This subsection does not apply to passenger facility fees in effect before the date of the enactment of this subsection.

(2) SECRETARY SHALL ENSURE IMPLEMENTATION AND COMPLIANCE.—The Secretary shall review any plan submitted under paragraph (1) to ensure that it meets the requirements of this section, and shall review its implementation from time-to-time to ensure that each covered airport successfully implements its plan.

(*l*) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility fees. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility fee under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee under this subsection. The notice shall include—

(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility fee is sought;

(B) the amount of revenue from passenger facility fees that is proposed to be collected for each project; and

(C) the level of the passenger facility fee that is proposed.

(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

(5) AUTHORITY TO IMPOSE FEE.—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger fa-

cility fee in accordance with the terms of its notice under this subsection.

(6) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

(7) SUNSET.—This subsection shall cease to be effective beginning on the date that is 3 years after the date of issuance of regulations to carry out this subsection.

(8) ACKNOWLEDGEMENT NOT AN ORDER.—An acknowledgement issued under paragraph (4) shall not be considered an order issued by the Secretary for purposes of section 46110.

(m) FINANCIAL MANAGEMENT OF FEES.—

(1) HANDLING OF FEES.—A covered air carrier shall segregate in a separate account passenger facility revenue equal to the average monthly liability for fees collected under this section by such carrier or any of its agents for the benefit of the eligible agencies entitled to such revenue.

(2) TRUST FUND STATUS.—If a covered air carrier or its agent fails to segregate passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

(3) PROHIBITION.—A covered air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

(4) COMPENSATION TO ELIGIBLE ENTITIES.—A covered air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

(5) INTEREST ON AMOUNTS.—A covered air carrier that collects passenger facility fees is entitled to receive the interest on passenger facility fee accounts if the accounts are established and maintained in compliance with this subsection.

(6) EXISTING REGULATIONS.—The provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility fees with other air carrier revenue shall not apply to a covered air carrier.

(7) COVERED AIR CARRIER DEFINED.—In this section, the term ''covered air carrier'' means an air carrier that files for chapter 7 or chapter 11 of title 11 bankruptcy protection, or has an involuntary chapter 7 of title 11 bankruptcy proceeding commenced against it, after the date of enactment of this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1113; Pub. L. 103–305, title II, §§ 203, 204(a)(1), (b), Aug. 23, 1994, 108 Stat. 1582, 1583; Pub. L. 104–264, title I, § 142(b)(2), title XII, § 1202, Oct. 9, 1996, 110 Stat. 3221, 3280; Pub. L. 104–287, § 5(67), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 106–181, title I, §§ 105(a), (b), 135(a), (b), 151, 152(a), 155(c), Apr. 5, 2000, 114 Stat. 71, 83, 86–88; Pub. L. 108–176, title I, §§ 121(a)–(c), 122–123(d), 124, Dec. 12, 2003, 117 Stat. 2499–2502.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40117(a)(1) ..	49 App.:1513(e)(15)(A), (B), (D).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(e)(1)–(3), (5)–(15); added Nov. 5, 1990, Pub. L. 101–508, § 9110(2), 104 Stat. 1388–357.
40117(a)(2) ..	(no source).	
40117(a)(3) ..	49 App.:1513(e)(15)(C).	
40117(a)(4), (5).	(no source).	
40117(b)(1) ..	49 App.:1513(e)(1).	
40117(b)(2) ..	49 App.:1513(e)(8) (1st sentence).	
40117(b)(3) ..	49 App.:1513(e)(6) (1st sentence).	
40117(c)(1), (2).	49 App.:1513(e)(11)(A)–(C).	
40117(c)(3) ..	49 App.:1513(e)(11)(D), (E) (last sentence).	
40117(d)	49 App.:1513(e)(2), (5).	
40117(e)(1)(A).	49 App.:1513(e)(11)(E) (1st sentence).	
40117(e)(1)(B).	49 App.:1513(e)(13).	
40117(e)(2)(A).	49 App.:1513(e)(6) (last sentence).	
40117(e)(2)(B).	49 App.:1513(e)(3).	
40117(e)(2)(C).	49 App.:1513(e)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(e)(4); added Nov. 5, 1990, Pub. L. 101–508, § 9110(2), 104 Stat. 1388–357; Oct. 31, 1992, Pub. L. 102–581, § 105, 106 Stat. 4877.
40117(f)(1) ...	49 App.:1513(e)(8) (last sentence).	
40117(f)(2), (3).	49 App.:1513(e)(9).	
40117(g)	49 App.:1513(e)(7).	
40117(h)	49 App.:1513(e)(12).	
40117(i)	49 App.:1513(e)(10), (14).	

In subsection (a), before clause (1), the text of 49 App.:1513(e)(15)(A) is omitted for clarity and because the terms ''air carrier'' and ''foreign air carrier'' are used the first time they appear in each subsection. The text of 49 App.:1513(e)(15)(D) is omitted because the complete name of the Secretary of Transportation is used the first time the term appears in this section. Clauses (2), (4), and (5) are added to avoid repeating the source provisions throughout this section. In clause (3)(D), the words ''without regard to'' are omitted as surplus.

In subsection (b)(1), the words ''bonds and other'' are omitted as surplus.

In subsection (b)(2), the word ''limit'' is omitted as being included in ''regulate''.

In subsection (d), before clause (1), the text of 49 App.:1513(e)(5) is omitted as executed. The words ''approve an application that an eligible agency has submitted under subsection (c) of this section'' are substituted for ''grant a public agency which controls a commercial service airport authority to impose a fee under this subsection'' for clarity.

In subsection (e)(1)(B), the words ''and conditions'' are omitted as being included in ''terms''.

Subsection (e)(2)(A) is substituted for 49 App.:1513(e)(6) (last sentence) to eliminate unnecessary words.

In subsection (e)(2)(B), the words ''a public agency which controls any other airport'', ''If a passenger of an air carrier is being provided air service'', and ''with respect to such air service'' are omitted as surplus.

In subsection (f)(3), the words ''financed with'' are substituted for ''carried out through the use of'' for consistency in this section and to eliminate unnecessary words.

In subsection (g), the word ''price'' is substituted for ''rate, fee, or charge'' and ''rates, fees, and charges'' to eliminate unnecessary words.

In subsection (g)(2), the words ''Except as provided by subparagraph (C)'' and ''by means of depreciation, am-

ortization, or any other method'' are omitted as surplus.

In subsection (h)(1), the word ''agent'' is substituted for ''agency'' to correct an error in the source provisions.

In subsection (i), before clause (1), the words ''Not later than May 4, 1991'' are omitted as obsolete.

PUB. L. 104–287

This repeals 49:40117(e)(2)(C) to eliminate an executed provision and makes conforming amendments.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (k)(1), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

The date of enactment of this subsection, referred to in subsecs. (*l*)(6) and (m)(7), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

Regulations to carry out this subsection, referred to in subsec. (*l*)(7), were issued effective May 9, 2005, see 70 F.R. 14928.

AMENDMENTS

2003—Subsec. (a)(3)(C). Pub. L. 108–176, § 123(d), substituted ''A project for costs'' for ''for costs'' and a period for the semicolon at end.

Subsec. (a)(3)(G). Pub. L. 108–176, § 121(a), added subpar. (G).

Subsec. (a)(4) to (6). Pub. L. 108–176, § 121(c), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (b)(5). Pub. L. 108–176, § 121(b), added par. (5).

Subsec. (b)(6). Pub. L. 108–176, § 122, added par. (6).

Subsec. (c)(2)(E), (F). Pub. L. 108–176, § 123(a)(1), added subpars. (E) and (F).

Subsec. (c)(3), (4). Pub. L. 108–176, § 123(a)(2)–(4), added par. (3), redesignated former par. (3) as (4), and substituted ''may'' for ''shall'' in first sentence of par. (4).

Subsec. (e)(2)(C). Pub. L. 108–176, § 123(c)(1), substituted a semicolon for period at end.

Subsec. (e)(2)(F). Pub. L. 108–176, § 123(c)(2)–(4), added subpar. (F).

Subsec. (*l*). Pub. L. 108–176, § 123(b), added subsec. (*l*).

Subsec. (m). Pub. L. 108–176, § 124, added subsec. (m).

2000—Subsec. (a). Pub. L. 106–181, § 151, amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''In this section—

''(1) 'airport', 'commercial service airport', and 'public agency' have the same meanings given those terms in section 47102 of this title.

''(2) 'eligible agency' means a public agency that controls a commercial service airport.

''(3) 'eligible airport-related project' means a project—

''(A) for airport development or airport planning under subchapter I of chapter 471 of this title;

''(B) for terminal development described in section 47110(d) of this title;

''(C) for airport noise capability planning under section 47505 of this title;

''(D) to carry out noise compatibility measures eligible for assistance under section 47504 of this title, whether or not a program for those measures has been approved under section 47504; and

''(E) for constructing gates and related areas at which passengers board or exit aircraft.

''(4) 'passenger facility fee' means a fee imposed under this section.

''(5) 'passenger facility revenue' means revenue derived from a passenger facility fee.''

Subsec. (a)(3)(C) to (F). Pub. L. 106–181, § 152(a), added subpar. (C) and redesignated former subpars. (C) to (E) as (D) to (F), respectively.

Subsec. (b)(4). Pub. L. 106–181, § 105(a), added par. (4).

Subsec. (d)(4). Pub. L. 106–181, § 105(b), added par. (4).

Subsec. (e)(2)(D), (E). Pub. L. 106–181, § 135(a), added subpars. (D) and (E).

Subsec. (i)(3). Pub. L. 106–181, § 135(b)(1)–(3), added par. (3).

Subsec. (j). Pub. L. 106–181, § 135(b)(4), added subsec. (j).

Subsec. (k). Pub. L. 106–181, § 155(c), added subsec. (k).

1996—Subsec. (a)(3)(D) to (F). Pub. L. 104–264, § 142(b)(2), inserted ''and'' at end of subpar. (D), substituted a period for ''; and'' at end of subpar. (E), and struck out subpar. (F) which read as follows: ''in addition to projects eligible under subparagraph (A), the construction, reconstruction, repair, or improvement of areas of an airport used for the operation of aircraft or actions to mitigate the environmental effects of such construction, reconstruction, repair, or improvement when the construction, reconstruction, repair, improvement, or action is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, or the Federal Water Pollution Control Act with respect to the airport.''

Subsec. (e)(2)(B) to (D). Pub. L. 104–287 inserted ''and'' at end of subpar. (B), redesignated subpar. (D) as (C), and struck out former subpar. (C) which read as follows: ''for a project the Secretary does not approve under this section before October 1, 1993, if, during the fiscal year ending September 30, 1993, the amount available for obligation under subchapter II of chapter 417 of this title is less than $38,600,000, except that this clause—

''(i) does not apply if the amount available for obligation under subchapter II of chapter 417 of this title is less than $38,600,000 because of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriation law; and

''(ii) does not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues, derived from a fee imposed under an approval made under this section, by a public agency that has received an approval to impose a fee under this section before September 30, 1993, regardless of whether the fee is being imposed on September 30, 1993; and''.

Subsec. (g)(4). Pub. L. 104–264, § 1202, added par. (4).

1994—Subsec. (a)(3)(F). Pub. L. 103–305, § 203, added subpar. (F).

Subsec. (d)(3). Pub. L. 103–305, § 204(b), added par. (3).

Subsec. (e)(2)(D). Pub. L. 103–305, § 204(a)(1), added subpar. (D).

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

GUIDANCE

Pub. L. 108–176, title I, § 121(d), Dec. 12, 2003, 117 Stat. 2500, provided that: ''The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance determining eligibility of projects, and how benefits to air quality must be demonstrated, under the amendments made by this section [amending this section].''

ELIGIBILITY OF AIRPORT GROUND ACCESS TRANSPORTATION PROJECTS

Pub. L. 108–176, title I, § 123(e), Dec. 12, 2003, 117 Stat. 2502, provided that: ''Not later than 60 days after the

enactment of this Act [Dec. 12, 2003], the Administrator of the Federal Aviation Administration shall publish in the Federal Register the current policy of the Administration, consistent with current law, with respect to the eligibility of airport ground access transportation projects for the use of passenger facility fees under section 40117 of title 49, United States Code.''

COMPETITION PLANS

Pub. L. 106–181, title I, § 155(a), Apr. 5, 2000, 114 Stat. 88, provided that: ''The Congress makes the following findings:

''(1) Major airports must be available on a reasonable basis to all air carriers wishing to serve those airports.

''(2) 15 large hub airports today are each dominated by one air carrier, with each such carrier controlling more than 50 percent of the traffic at the hub.

''(3) The General Accounting Office [now Government Accountability Office] has found that such levels of concentration lead to higher air fares.

''(4) The United States Government must take every step necessary to reduce those levels of concentration.

''(5) Consistent with air safety, spending at these airports must be directed at providing opportunities for carriers wishing to serve such facilities on a commercially viable basis.''

LIMITATION ON STATUTORY CONSTRUCTION OF SUBSECTION (e)(2)(D)

Section 204(a)(2) of Pub. L. 103–305 provided that: ''The amendment made by paragraph (1) [amending this section] shall not be construed as requiring any person to refund any fee paid before the date of the enactment of this Act [Aug. 23, 1994].''

§ 40118. Government-financed air transportation

(a) TRANSPORTATION BY AIR CARRIERS HOLDING CERTIFICATES.—A department, agency, or instrumentality of the United States Government shall take necessary steps to ensure that the transportation of passengers and property by air is provided by an air carrier holding a certificate under section 41102 of this title if—

(1) the department, agency, or instrumentality—

(A) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government; or

(B) provides the transportation to or for a foreign country or international or other organization without reimbursement;

(2) the transportation is authorized by the certificate or by regulation or exemption of the Secretary of Transportation; and

(3) the air carrier is—

(A) available, if the transportation is between a place in the United States and a place outside the United States; or

(B) reasonably available, if the transportation is between 2 places outside the United States.

(b) TRANSPORTATION BY FOREIGN AIR CARRIERS.—This section does not preclude the transportation of passengers and property by a foreign air carrier if the transportation is provided under a bilateral or multilateral air transportation agreement to which the Government and the government of a foreign country are parties if the agreement—

(1) is consistent with the goals for international aviation policy of section 40101(e) of this title; and

(2) provides for the exchange of rights or benefits of similar magnitude.

(c) PROOF.—The Administrator of General Services shall prescribe regulations under which agencies may allow the expenditure of an appropriation for transportation in violation of this section only when satisfactory proof is presented showing the necessity for the transportation.

(d) CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED STATES.—Notwithstanding subsections (a) and (c) of this section, any amount appropriated to the Secretary of State or the Administrator of the Agency for International Development may be used to pay for the transportation of an officer or employee of the Department of State or one of those agencies, a dependent of the officer or employee, and accompanying baggage, by a foreign air carrier when the transportation is between 2 places outside the United States.

(e) RELATIONSHIP TO OTHER LAWS.—This section does not affect the application of the antidiscrimination provisions of this part.

(f) PROHIBITION OF CERTIFICATION OR CONTRACT CLAUSE.—(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

(2) In paragraph (1), the term ''commercial item'' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)), except that it shall not include a contract for the transportation by air of passengers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1116; Pub. L. 103–355, title VIII, § 8301(h), Oct. 13, 1994, 108 Stat. 3398; Pub. L. 104–287, § 5(68), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 104–316, title I, § 127(d), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105–277, div. G, subdiv. A, title XII, § 1225(h), title XIII, § 1335(p), title XIV, § 1422(b)(6), Oct. 21, 1998, 112 Stat. 2681–775, 2681–789, 2681–793; Pub. L. 108–176, title VIII, § 806, Dec. 12, 2003, 117 Stat. 2588.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40118(a)	49 App.:1517(a), (b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1117; added Jan. 3, 1975, Pub. L. 93–623, § 5(a), 88 Stat. 2104; restated Feb. 15, 1980, Pub. L. 96–192, § 21, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
40118(b)	49 App.:1517(c).	
40118(c)	49 App.:1517(d) (1st sentence).	
40118(d)	49 App.:1518.	Oct. 7, 1978, Pub. L. 95–426, § 706, 92 Stat. 992.
40118(e)	49 App.:1517(d) (last sentence).	

In this section, the word ''passengers'' is substituted for ''persons'' for consistency in the revised title. The words ''(and their personal effects)'' are omitted as being included in ''property''.

In subsection (a), before clause (1), the words ''Except as provided in subsection (c) of this section'' are omitted as surplus. The words ''department, agency, or instrumentality'' are substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code. The words ''or agencies'' are omitted because of 1:1. In clause (1), before subclause (A), the words ''executive'' and ''other'' are omitted as surplus. In subclause (A), the words ''procure, contract for, or otherwise'' are omitted as surplus. The words ''for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government'' are substituted for ''in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise'' for clarity and to eliminate unnecessary words. In subclause (B), the word ''country'' is substituted for ''nation'' for consistency in the revised title and with other titles of the Code. The words ''international or other organization'' are substituted for ''international agency, or other organization, of whatever nationality'' to eliminate unnecessary words. The words ''provisions for'' are omitted as surplus.

In subsection (b), before clause (1), the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the Code. The words ''or governments'' are omitted because of 1:1.

In subsection (c), the words ''for payment for personnel or cargo transportation'' are omitted as surplus.

In subsection (d), the words ''the limitations established by'' are omitted as surplus. The words ''after October 7, 1978'' are omitted as executed. The words ''Secretary of State'' are substituted for ''Department of State'' because of 22:2651. The words ''Director of the United States Information Agency'' are substituted for ''International Communication Agency'' in section 706 of the Act of October 7, 1978 (Public Law 95–426, 92 Stat. 992), because of section 2 of Reorganization Plan No. 2 of 1977 (eff. July 1, 1978, 91 Stat. 1636) and section 303(b) of the United States Information Agency Authorization Act, Fiscals Year 1982 and 1983 (Public Law 97–241, 96 Stat. 291). The words ''Director of the United States International Development Cooperation Agency'' are substituted for ''Agency for International Development (or any successor agency)'' in section 706 because of section 6(a)(3) of Reorganization Plan No. 2 of 1979 (eff. October 1, 1979, 93 Stat. 1379). The words ''a foreign air carrier'' are substituted for ''air carriers which do not hold certificates under section 1371 of this Appendix'' for clarity. See H. Conf. Rept. No. 95–1535, 95th Cong., 2d Sess., p. 45 (1978).

In subsection (e), the word ''affect'' is substituted for ''prevent'' for clarity. The words ''to such traffic'' are omitted as surplus.

PUB. L. 104–287, § 5(68)(A)

This amends the catchline for 49:40118(d) to make a clarifying amendment.

PUB. L. 104–287, § 5(68)(B)

This amends 49:40118(f)(1) to make a clarifying amendment.

AMENDMENTS

2003—Subsec. (f)(2). Pub. L. 108–176 inserted '', except that it shall not include a contract for the transportation by air of passengers'' before period at end.

1998—Subsec. (d). Pub. L. 105–277, § 1422(b)(6), substituted ''or the Administrator of the Agency for International Development'' for ''the Director of the United States International Development Cooperation Agency''.

Pub. L. 105–277, § 1335(p), struck out '', the Director of the United States Information Agency,'' after ''Secretary of State''.

Pub. L. 105–277, § 1225(h), struck out '', or the Director of the Arms Control and Disarmament Agency'' before ''may be used to pay''.

1996—Subsec. (c). Pub. L. 104–316 substituted ''Administrator of General Services shall prescribe regulations under which agencies may'' for ''Comptroller General shall''.

Subsec. (d). Pub. L. 104–287, § 5(68)(A), substituted ''CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED STATES'' for ''TRANSPORTATION BY FOREIGN AIR CARRIERS'' in heading.

Subsec. (f). Pub. L. 104–287, § 5(68)(B), inserted heading.

1994—Subsec. (f). Pub. L. 103–355 added subsec. (f).

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 1998 AMENDMENT

Amendment by section 1225(h) of Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

Amendment by section 1335(p) of Pub. L. 105–277 effective on earlier of Oct. 1, 1999, or date of abolition of the United States Information Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of Title 22.

Amendment by section 1422(b)(6) of Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States International Development Cooperation Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1401 of Pub. L. 105–277, set out as an Effective Date note under section 6561 of Title 22.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.

§ 40119. Security and research and development activities

(a) GENERAL REQUIREMENTS.—The Under Secretary of Transportation for Security and the Administrator of the Federal Aviation Administration each shall conduct research (including behavioral research) and development activities appropriate to develop, modify, test, and evaluate a system, procedure, facility, or device to protect passengers and property against acts of criminal violence, aircraft piracy, and terrorism and to ensure security.

(b) DISCLOSURE.—(1) Notwithstanding section 552 of title 5 and the establishment of a Department of Homeland Security, the Secretary of Transportation shall prescribe regulations prohibiting disclosure of information obtained or developed in ensuring security under this title if the Secretary of Transportation decides disclosing the information would—

(A) be an unwarranted invasion of personal privacy;

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

(C) be detrimental to transportation safety.

(2) Paragraph (1) of this subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(c) TRANSFERS OF DUTIES AND POWERS PROHIBITED.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this section to another department, agency, or instrumentality of the United States Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1117; Pub. L. 107–71, title I, § 101(e), Nov. 19, 2001, 115 Stat. 603; Pub. L. 107–296, title XVI, § 1601(a), Nov. 25, 2002, 116 Stat. 2312.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40119(a)	49 App.:1357(d)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(d)(1), (e)(1); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 417.
40119(b)	49 App.:1357(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(d)(2); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 417; Nov. 5, 1990, Pub. L. 101–508, § 9121, 104 Stat. 1388–370.
40119(c)	49 App.:1357(e)(1).	

In this section, the word ''Administrator'' in section 316(d) and (e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731) is retained on authority of 49:106(g).

In subsection (a), the words ''as he may deem'' and ''aboard aircraft in air transportation or intrastate air transportation'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''relating to freedom of information'', ''as he may deem necessary'', and ''in the conduct of research and development activities'' are omitted as surplus. In clause (A), the words ''(including, but not limited to, information contained in any personnel, medical, or similar file)'' are omitted as surplus. In clause (B), the words ''obtained from any person'' are omitted as surplus. In clause (C), the word ''traveling'' is omitted as surplus.

In subsection (b)(2), the word ''duly'' is omitted as surplus. The words ''to have the information'' are added for clarity.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296, § 1601(a)(1), inserted ''and the Administrator of the Federal Aviation Administration each'' after ''for Security'' and substituted ''criminal violence, aircraft piracy, and terrorism and to ensure security'' for ''criminal violence and aircraft piracy''.

Subsec. (b)(1). Pub. L. 107–296, § 1601(a)(2)(A), (B), in introductory provisions, substituted ''and the establishment of a Department of Homeland Security, the Secretary of Transportation'' for '', the Under Secretary'' and ''ensuring security under this title if the Secretary of Transportation'' for ''carrying out security or research and development activities under section 44501(a) or (c), 44502(a)(1) or (3), (b), or (c), 44504, 44505, 44507, 44508, 44511, 44512, 44513, 44901, 44903(a), (b), (c), or (e), 44905, 44912, 44935, 44936, or 44938(a) or (b) of this title if the Under Secretary''.

Subsec. (b)(1)(C). Pub. L. 107–296, § 1601(a)(2)(C), substituted ''transportation safety'' for ''the safety of passengers in transportation''.

2001—Subsec. (a). Pub. L. 107–71, § 101(e)(1), substituted ''Under Secretary of Transportation for Security'' for ''Administrator of the Federal Aviation Administration''.

Subsec. (b). Pub. L. 107–71, § 101(e)(2), substituted ''Under Secretary'' for ''Administrator'' in two places in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 107–71, § 101(e)(3), struck out ''air'' before ''transportation''.

Subsec. (c). Pub. L. 107–71, § 101(e)(2), substituted ''Under Secretary'' for ''Administrator''.

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.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 40120. Relationship to other laws

(a) NONAPPLICATION.—Except as provided in the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

(b) EXTENDING APPLICATION OUTSIDE UNITED STATES.—The President may extend (in the way and for periods the President considers necessary) the application of this part to outside the United States when—

(1) an international arrangement gives the United States Government authority to make the extension; and

(2) the President decides the extension is in the national interest.

(c) ADDITIONAL REMEDIES.—A remedy under this part is in addition to any other remedies provided by law.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1117.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40120(a)	49 App.:1509(a).	Aug. 23, 1958, Pub. L. 85–726, §§ 1106, 1109(a), 1110, 72 Stat. 798, 799, 800.
40120(b)	49 App.:1510.	
40120(c)	49 App.:1506.	

In subsection (a), the words ''International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.)'' are substituted for ''sections 143 to 147d of title 33'' because those sections were repealed by section 3 of the Act of September 24, 1963 (Public Law 88–131, 77 Stat. 194), and replaced by 33:ch. 21. Chapter 21 was repealed by section 10 of the International Navigational Rules Act of 1977 (Public Law 95–75, 91 Stat. 311) and replaced by 33:1601–1608. The words ''including any definition of 'vessel' or 'vehicle' found therein'' and ''be construed to'' are omitted as surplus.

In subsection (b), before clause (1), the words ''to the extent'', ''of time'', and ''any areas of land or water'' are omitted as surplus. The words ''and the overlying airspace thereof'' are omitted as being included in ''outside the United States''. In clause (1), the words ''treaty, agreement or other lawful'' and ''necessary legal'' are omitted as surplus.

Subsection (c) is substituted for 49 App.:1506 to eliminate unnecessary words and for clarity and consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

The International Navigational Rules Act of 1977, referred to in subsec. (a), is Pub. L. 95–75, July 27, 1977, 91 Stat. 308, as amended, which is classified principally to chapter 30 (§ 1601 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 33 and Tables.

EX. ORD. NO. 10854. EXTENSION OF APPLICATION

Ex. Ord. No. 10854, Nov. 27, 1959, 24 F.R. 9565, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, provided:

The application of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C.A. § 1301 et seq. [see 49 U.S.C. 40101 et seq.]), to the extent necessary to permit the Secretary of Transportation to accomplish the purposes and objectives of Titles III [former 49 U.S.C. 1341 et seq., see Disposition Table at beginning of this title] and XII [see 49 U.S.C. 40103(b)(3), 46307] thereof, is hereby extended to those areas of land or water outside the United States and the overlying airspace thereof over or in which the Federal Government of the United States, under international treaty, agreement or other lawful arrangement, has appropriate jurisdiction or control: *Provided*, That the Secretary of Transportation, prior to taking any action under the authority hereby conferred, shall first consult with the Secretary of State on matters affecting foreign relations, and with the Secretary of Defense on matters affecting national-defense interests, and shall not take any action which the Secretary of State determines to be in conflict with any international treaty or agreement to which the United States is a party, or to be inconsistent with the successful conduct of the foreign relations of the United States, or which the Secretary of Defense determines to be inconsistent with the requirements of national defense.

§ 40121. Air traffic control modernization reviews

(a) REQUIRED TERMINATIONS OF ACQUISITIONS.—The Administrator of the Federal Aviation Administration shall terminate any acquisition program initiated after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and funded under the Facilities and Equipment account that—

(1) is more than 50 percent over the cost goal established for the program;

(2) fails to achieve at least 50 percent of the performance goals established for the program; or

(3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program.

(b) AUTHORIZED TERMINATION OF ACQUISITION PROGRAMS.—The Administrator shall consider terminating, under the authority of subsection (a), any substantial acquisition program that—

(1) is more than 10 percent over the cost goal established for the program;

(2) fails to achieve at least 90 percent of the performance goals established for the program; or

(3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program.

(c) EXCEPTIONS AND REPORT.—

(1) CONTINUANCE OF PROGRAM, ETC.—Notwithstanding subsection (a), the Administrator may continue an acquisitions program required to be terminated under subsection (a) if the Administrator determines that termination would be inconsistent with the development or operation of the national air transportation system in a safe and efficient manner.

(2) DEPARTMENT OF DEFENSE.—The Department of Defense shall have the same exemptions from acquisition laws as are waived by the Administrator under section 40110(d)(2) of this title when engaged in joint actions to improve or replenish the national air traffic control system. The Administration may acquire real property, goods, and services through the Department of Defense, or other appropriate agencies, but is bound by the acquisition laws and regulations governing those cases.

(3) REPORT.—If the Administrator makes a determination under paragraph (1), the Administrator shall transmit a copy of the determination, together with a statement of the basis for the determination, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 104–264, title II, § 252, Oct. 9, 1996, 110 Stat. 3236; amended Pub. L. 106–181, title III, § 307(c)(2), Apr. 5, 2000, 114 Stat. 126.)

REFERENCES IN TEXT

The date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (a), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

CODIFICATION

Another section 40121 was renumbered section 40124 of this title.

AMENDMENTS

2000—Subsec. (c)(2). Pub. L. 106–181 substituted ''section 40110(d)(2) of this title'' for ''section 348(b) of Public Law 104–50''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§ 40122. Federal Aviation Administration personnel management system

(a) IN GENERAL.—

(1) CONSULTATION AND NEGOTIATION.—In developing and making changes to the personnel

management system initially implemented by the Administrator of the Federal Aviation Administration on April 1, 1996, the Administrator shall negotiate with the exclusive bargaining representatives of employees of the Administration certified under section 7111 of title 5 and consult with other employees of the Administration.

(2) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator's proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress. The 60-day period shall not include any period during which Congress has adjourned sine die.

(3) COST SAVINGS AND PRODUCTIVITY GOALS.—The Administration and the exclusive bargaining representatives of the employees shall use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units.

(4) ANNUAL BUDGET DISCUSSIONS.—The Administration and the exclusive bargaining representatives of the employees shall meet annually for the purpose of finding additional cost savings within the Administration's annual budget as it applies to each of the affected bargaining units and throughout the agency.

(b) EXPERT EVALUATION.—On the date that is 3 years after the personnel management system is implemented, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of the system within 3 months after such date. For this purpose, the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary.

(c) PAY RESTRICTION.—No officer or employee of the Administration may receive an annual rate of basic pay in excess of the annual rate of basic pay payable to the Administrator.

(d) ETHICS.—The Administration shall be subject to Executive Order No. 12674 and regulations and opinions promulgated by the Office of Government Ethics, including those set forth in section 2635 of title 5 of the Code of Federal Regulations.

(e) EMPLOYEE PROTECTIONS.—Until July 1, 1999, basic wages (including locality pay) and operational differential pay provided employees of the Administration shall not be involuntarily adversely affected by reason of the enactment of this section, except for unacceptable performance or by reason of a reduction in force or reorganization or by agreement between the Administration and the affected employees' exclusive bargaining representative.

(f) LABOR-MANAGEMENT AGREEMENTS.—Except as otherwise provided by this title, all labor-management agreements covering employees of the Administration that are in effect on the effective date of the Air Traffic Management System Performance Improvement Act of 1996 shall remain in effect until their normal expiration date, unless the Administrator and the exclusive bargaining representative agree to the contrary.

(g) PERSONNEL MANAGEMENT SYSTEM.—

(1) IN GENERAL.—In consultation with the employees of the Administration and such non-governmental experts in personnel management systems as he may employ, and notwithstanding the provisions of title 5 and other Federal personnel laws, the Administrator shall develop and implement, not later than January 1, 1996, a personnel management system for the Administration that addresses the unique demands on the agency's workforce. Such a new system shall, at a minimum, provide for greater flexibility in the hiring, training, compensation, and location of personnel.

(2) APPLICABILITY OF TITLE 5.—The provisions of title 5 shall not apply to the new personnel management system developed and implemented pursuant to paragraph (1), with the exception of—

(A) section 2302(b), relating to whistleblower protection, including the provisions for investigation and enforcement as provided in chapter 12 of title 5;

(B) sections 3308–3320, relating to veterans' preference;

(C) chapter 71, relating to labor-management relations;

(D) section 7204, relating to antidiscrimination;

(E) chapter 73, relating to suitability, security, and conduct;

(F) chapter 81, relating to compensation for work injury;

(G) chapters 83–85, 87, and 89, relating to retirement, unemployment compensation, and insurance coverage; and

(H) sections 1204, 1211–1218, 1221, and 7701–7703, relating to the Merit Systems Protection Board.

(3) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Under the new personnel management system developed and implemented under paragraph (1), an employee of the Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996.

(4) EFFECTIVE DATE.—This subsection shall take effect on April 1, 1996.

(h) RIGHT TO CONTEST ADVERSE PERSONNEL ACTIONS.—An employee of the Federal Aviation Administration who is the subject of a major adverse personnel action may contest the action either through any contractual grievance procedure that is applicable to the employee as a member of the collective bargaining unit or through the Administration's internal process relating to review of major adverse personnel

actions of the Administration, known as Guaranteed Fair Treatment, or under section 40122(g)(3).

(i) ELECTION OF FORUM.—Where a major adverse personnel action may be contested through more than one of the indicated forums (such as the contractual grievance procedure, the Federal Aviation Administration's internal process, or that of the Merit Systems Protection Board), an employee must elect the forum through which the matter will be contested. Nothing in this section is intended to allow an employee to contest an action through more than one forum unless otherwise allowed by law.

(j) DEFINITION.—In this section, the term ''major adverse personnel action'' means a suspension of more than 14 days, a reduction in pay or grade, a removal for conduct or performance, a nondisciplinary removal, a furlough of 30 days or less (but not including placement in a nonpay status as the result of a lapse of appropriations or an enactment by Congress), or a reduction in force action.

(Added Pub. L. 104–264, title II, § 253, Oct. 9, 1996, 110 Stat. 3237; amended Pub. L. 106–181, title III, §§ 307(a), 308, Apr. 5, 2000, 114 Stat. 124, 126.)

REFERENCES IN TEXT

Executive Order No. 12674, referred to in subsec. (d), is set out as a note under section 7301 of Title 5, Government Organization and Employees.

The effective date of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (f), is the date that is 30 days after Oct. 9, 1996. See section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

AMENDMENTS

2000—Subsec. (a)(2). Pub. L. 106–181, § 308(a), inserted at end ''The 60-day period shall not include any period during which Congress has adjourned sine die.''

Subsec. (g). Pub. L. 106–181, § 307(a), added subsec. (g).

Subsecs. (h) to (j). Pub. L. 106–181, § 308(b), added subsecs. (h) to (j).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§ 40123. Protection of voluntarily submitted information

(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Administrator of the Federal Aviation Administration, nor any agency receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that—

(1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities; and

(2) withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities.

(b) REGULATIONS.—The Administrator shall issue regulations to carry out this section.

(Added Pub. L. 104–264, title IV, § 402(a), Oct. 9, 1996, 110 Stat. 3255.)

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§ 40124. Interstate agreements for airport facilities

Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.

(Added Pub. L. 104–287, § 5(69)(A), Oct. 11, 1996, 110 Stat. 3395, § 40121; renumbered § 40124, Pub. L. 105–102, § 3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

This restates 49:44502(e) as 49:40121 [now 40124] to provide a more appropriate place in title 49.

AMENDMENTS

1997—Pub. L. 105–102 amended Pub. L. 104–287, renumbering section 40121 of this title as this section.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, § 3(d), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(d)(1)(B) is effective Oct. 11, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

§ 40125. Qualifications for public aircraft status

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL PURPOSES.—The term ''commercial purposes'' means the transportation of persons or property for compensation or hire, but does not include the operation of an aircraft by the armed forces for reimbursement when that reimbursement is required by any Federal statute, regulation, or directive, in effect on November 1, 1999, or by one government on behalf of another government under a cost reimbursement agreement if the government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation is necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator is reasonably available to meet the threat.

(2) GOVERNMENTAL FUNCTION.—The term ''governmental function'' means an activity

undertaken by a government, such as national defense, intelligence missions, firefighting, search and rescue, law enforcement (including transport of prisoners, detainees, and illegal aliens), aeronautical research, or biological or geological resource management.

(3) QUALIFIED NON-CREWMEMBER.—The term ''qualified non-crewmember'' means an individual, other than a member of the crew, aboard an aircraft—

(A) operated by the armed forces or an intelligence agency of the United States Government; or

(B) whose presence is required to perform, or is associated with the performance of, a governmental function.

(4) ARMED FORCES.—The term ''armed forces'' has the meaning given such term by section 101 of title 10.

(b) AIRCRAFT OWNED BY GOVERNMENTS.—An aircraft described in subparagraph (A), (B), (C), or (D) of section 40102(a)(37)[1] does not qualify as a public aircraft under such section when the aircraft is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

(c) AIRCRAFT OWNED OR OPERATED BY THE ARMED FORCES.—

(1) IN GENERAL.—Subject to paragraph (2), an aircraft described in section 40102(a)(37)(E)[1] qualifies as a public aircraft if—

(A) the aircraft is operated in accordance with title 10;

(B) the aircraft is operated in the performance of a governmental function under title 14, 31, 32, or 50 and the aircraft is not used for commercial purposes; or

(C) the aircraft is chartered to provide transportation to the armed forces and the Secretary of Defense (or the Secretary of the department in which the Coast Guard is operating) designates the operation of the aircraft as being required in the national interest.

(2) LIMITATION.—An aircraft that meets the criteria set forth in paragraph (1) and that is owned or operated by the National Guard of a State, the District of Columbia, or any territory or possession of the United States, qualifies as a public aircraft only to the extent that it is operated under the direct control of the Department of Defense.

(Added Pub. L. 106–181, title VII, § 702(b)(1), Apr. 5, 2000, 114 Stat. 155.)

REFERENCES IN TEXT

Section 40102(a)(37) of this title, referred to in subsecs. (b) and (c)(1), was redesignated section 40102(a)(41) by Pub. L. 108–176, title II, § 225(a)(3), Dec. 12, 2003, 117 Stat. 2528.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[1] See References in Text note below.

§ 40126. Severable services contracts for periods crossing fiscal years

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a contract for procurement of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed 1 year.

(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).

(Added Pub. L. 106–181, title VII, § 705(a), Apr. 5, 2000, 114 Stat. 157.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 40127. Prohibitions on discrimination

(a) PERSONS IN AIR TRANSPORTATION.—An air carrier or foreign air carrier may not subject a person in air transportation to discrimination on the basis of race, color, national origin, religion, sex, or ancestry.

(b) USE OF PRIVATE AIRPORTS.—Notwithstanding any other provision of law, no State or local government may prohibit the use or full enjoyment of a private airport within its jurisdiction by any person on the basis of that person's race, color, national origin, religion, sex, or ancestry.

(Added Pub. L. 106–181, title VII, § 706(a), Apr. 5, 2000, 114 Stat. 157.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 40128. Overflights of national parks

(a) IN GENERAL.—

(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands, as defined by this section, except—

(A) in accordance with this section;

(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

(C) in accordance with any applicable air tour management plan for the park or tribal lands.

(2) APPLICATION FOR OPERATING AUTHORITY.—

(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the

Administrator for authority to conduct the operations over the park or tribal lands.

(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever an air tour management plan limits the number of commercial air tour operations over a national park during a specified time frame, the Administrator, in cooperation with the Director, shall issue operation specifications to commercial air tour operators that conduct such operations. The operation specifications shall include such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour operations over the park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

(i) the safety record of the person submitting the proposal or pilots employed by the person;

(ii) any quiet aircraft technology proposed to be used by the person submitting the proposal;

(iii) the experience of the person submitting the proposal with commercial air tour operations over other national parks or scenic areas;

(iv) the financial capability of the person submitting the proposal;

(v) any training programs for pilots provided by the person submitting the proposal; and

(vi) responsiveness of the person submitting the proposal to any relevant criteria developed by the National Park Service for the affected park.

(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator, in cooperation with the Director, shall develop an air tour management plan in accordance with subsection (b) and implement such plan.

(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Administrator shall make every effort to act on any application under this paragraph and issue a decision on the application not later than 24 months after it is received or amended.

(F) PRIORITY.—In acting on applications under this paragraph to provide commercial air tour operations over a national park, the Administrator shall give priority to an application under this paragraph in any case in which a new entrant commercial air tour operator is seeking operating authority with respect to that national park.

(3) EXCEPTION.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the title 14, Code of Federal Regulations if—

(A) such activity is permitted under part 119 of such title;

(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the operations will be conducted; and

(C) the total number of operations under this exception is limited to not more than five flights in any 30-day period over a particular park.

(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall apply, not later than 90 days after the date of the enactment of this section, for operating authority under part 119, 121, or 135 of title 14, Code of Federal Regulations. A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands. The Administrator shall make every effort to act on any such application for a new entrant and issue a decision on the application not later than 24 months after it is received or amended.

(b) AIR TOUR MANAGEMENT PLANS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in cooperation with the Director, shall establish an air tour management plan for any national park or tribal land for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The air tour management plan shall be developed by means of a public process in accordance with paragraph (4).

(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.

(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement and the record of decision for the air tour management plan.

(3) CONTENTS.—An air tour management plan for a national park—

(A) may prohibit commercial air tour operations over a national park in whole or in part;

(B) may establish conditions for the conduct of commercial air tour operations over a national park, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

(C) shall apply to all commercial air tour operations over a national park that are also within ½ mile outside the boundary of a national park;

(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations over a national park;

(E) shall provide for the initial allocation of opportunities to conduct commercial air tour operations over a national park if the plan includes a limitation on the number of commercial air tour operations for any time period; and

(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E) and include such justifications in the record of decision.

(4) PROCEDURE.—In establishing an air tour management plan for a national park or tribal lands, the Administrator and the Director shall—

(A) hold at least one public meeting with interested parties to develop the air tour management plan;

(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with the regulations, the Federal Aviation Administration shall be the lead agency and the National Park Service is a cooperating agency); and

(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park or tribal lands to which the plan applies, as a cooperating agency under the regulations referred to in subparagraph (C).

(5) JUDICIAL REVIEW.—An air tour management plan developed under this subsection shall be subject to judicial review.

(6) AMENDMENTS.—The Administrator, in cooperation with the Director, may make amendments to an air tour management plan. Any such amendments shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

(c) INTERIM OPERATING AUTHORITY.—

(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this subsection to a commercial air tour operator for commercial air tour operations over a national park or tribal lands for which the operator is an existing commercial air tour operator.

(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

(A) shall provide annual authorization only for the greater of—

(i) the number of flights used by the operator to provide the commercial air tour operations over a national park within the 12-month period prior to the date of the enactment of this section; or

(ii) the average number of flights per 12-month period used by the operator to provide such operations within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

(B) may not provide for an increase in the number of commercial air tour operations over a national park conducted during any time period by the commercial air tour operator above the number that the air tour operator was originally granted unless such an increase is agreed to by the Administrator and the Director;

(C) shall be published in the Federal Register to provide notice and opportunity for comment;

(D) may be revoked by the Administrator for cause;

(E) shall terminate 180 days after the date on which an air tour management plan is established for the park or tribal lands;

(F) shall promote protection of national park resources, visitor experiences, and tribal lands;

(G) shall promote safe commercial air tour operations;

(H) shall promote the adoption of quiet technology, as appropriate; and

(I) shall allow for modifications of the interim operating authority based on experience if the modification improves protection of national park resources and values and of tribal lands.

(3) NEW ENTRANT AIR TOUR OPERATORS.—

(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park or tribal lands for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tour operations over the park or tribal lands.

(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at the park or on the tribal lands, or the Director determines that it would create a noise problem at the park or on the tribal lands.

(C) ATMP LIMITATION.—The Administrator may grant interim operating authority

under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of the enactment of this section.

(d) EXEMPTIONS.—This section shall not apply to—

(1) the Grand Canyon National Park; or

(2) tribal lands within or abutting the Grand Canyon National Park.

(e) LAKE MEAD.—This section shall not apply to any air tour operator while flying over or near the Lake Mead National Recreation Area, solely as a transportation route, to conduct an air tour over the Grand Canyon National Park. For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL AIR TOUR OPERATOR.—The term ''commercial air tour operator'' means any person who conducts a commercial air tour operation over a national park.

(2) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term ''existing commercial air tour operator'' means a commercial air tour operator that was actively engaged in the business of providing commercial air tour operations over a national park at any time during the 12-month period ending on the date of the enactment of this section.

(3) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term ''new entrant commercial air tour operator'' means a commercial air tour operator that—

(A) applies for operating authority as a commercial air tour operator for a national park or tribal lands; and

(B) has not engaged in the business of providing commercial air tour operations over the national park or tribal lands in the 12-month period preceding the application.

(4) COMMERCIAL AIR TOUR OPERATION OVER A NATIONAL PARK.—

(A) IN GENERAL.—The term ''commercial air tour operation over a national park'' means any flight, conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park, within ½ mile outside the boundary of any national park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park), during which the aircraft flies—

(i) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); or

(ii) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

(B) FACTORS TO CONSIDER.—In making a determination of whether a flight is a commercial air tour operation over a national park for purposes of this section, the Administrator may consider—

(i) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

(ii) whether a narrative that referred to areas or points of interest on the surface below the route of the flight was provided by the person offering the flight;

(iii) the area of operation;

(iv) the frequency of flights conducted by the person offering the flight;

(v) the route of flight;

(vi) the inclusion of sightseeing flights as part of any travel arrangement package offered by the person offering the flight;

(vii) whether the flight would have been canceled based on poor visibility of the surface below the route of the flight; and

(viii) any other factors that the Administrator and the Director consider appropriate.

(5) NATIONAL PARK.—The term ''national park'' means any unit of the National Park System.

(6) TRIBAL LANDS.—The term ''tribal lands'' means Indian country (as that term is defined in section 1151 of title 18) that is within or abutting a national park.

(7) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Aviation Administration.

(8) DIRECTOR.—The term ''Director'' means the Director of the National Park Service.

(Added Pub. L. 106–181, title VIII, § 803(a), Apr. 5, 2000, 114 Stat. 186; amended Pub. L. 108–176, title III, § 323(a), Dec. 12, 2003, 117 Stat. 2541; Pub. L. 109–115, div. A, title I, § 177, Nov. 30, 2005, 119 Stat. 2427.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a)(4), (c)(2)(A), (3)(C), and (f)(2), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2005—Subsec. (e). Pub. L. 109–115 inserted at end ''For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.''

2003—Subsec. (a)(1). Pub. L. 108–176, § 323(a)(1), inserted '', as defined by this section,'' after ''tribal lands'' in introductory provisions.

Subsec. (b)(3)(A), (B). Pub. L. 108–176, § 323(a)(2), inserted ''over a national park'' after ''operations''.

Subsec. (b)(3)(C). Pub. L. 108–176, § 323(a)(3), inserted ''over a national park that are also'' after ''operations''.

Subsec. (b)(3)(D). Pub. L. 108–176, § 323(a)(4), substituted ''over a national park'' for ''at the park''.

Subsec. (b)(3)(E). Pub. L. 108–176, § 323(a)(5), inserted ''over a national park'' before ''if the plan includes''.

Subsec. (c)(2)(A)(i), (B). Pub. L. 108–176, § 323(a)(6), inserted ''over a national park'' after ''operations''.

Subsec. (f)(1). Pub. L. 108–176, § 323(a)(7), inserted ''over a national park'' after ''operation''.

Subsec. (f)(4). Pub. L. 108–176, § 323(a)(10), inserted ''OVER A NATIONAL PARK'' after ''OPERATION'' in heading.

Subsec. (f)(4)(A). Pub. L. 108–176, § 323(a)(8), in introductory provisions, substituted ''commercial air tour operation over a national park'' for ''commercial air tour operation'' and ''park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park),'' for ''park, or over tribal lands,''.

Subsec. (f)(4)(B). Pub. L. 108–176, § 323(a)(9), inserted ''over a national park'' after ''operation'' in introductory provisions.

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

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

GRAND CANYON OVERFLIGHT RULES

Pub. L. 109–115, div. A, title I, § 177, Nov. 30, 2005, 119 Stat. 2427, provided in part that: ''Nothing in this provision [amending this section] shall allow exemption from overflight rules for the Grand Canyon.''

QUIET TECHNOLOGY RULEMAKING FOR AIR TOURS OVER GRAND CANYON NATIONAL PARK

Pub. L. 108–176, title III, § 323(b), Dec. 12, 2003, 117 Stat. 2541, provided that:

''(1) DEADLINE FOR RULE.—No later than January 2005, the Secretary of Transportation shall issue a final rule to establish standards for quiet technology that are reasonably achievable at Grand Canyon National Park, based on the Supplemental Notice of Proposed Rulemaking on Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park, published in the Federal Register on March 24, 2003.

''(2) RESOLUTION OF DISPUTES.—Subject to applicable administrative law and procedures, if the Secretary determines that a dispute among interested parties (including outside groups) or government agencies cannot be resolved within a reasonable time frame and could delay finalizing the rulemaking described in subsection (a), or implementation of final standards under such rule, due to controversy over adoption of quiet technology routes, establishment of incentives to encourage adoption of such routes, establishment of incentives to encourage adoption of quite technology, or other measures to achieve substantial restoration of natural quiet, the Secretary shall refer such dispute to a recognized center for environmental conflict resolution.''

NATIONAL PARKS AIR TOUR MANAGEMENT

Pub. L. 106–181, title VIII, Apr. 5, 2000, 114 Stat. 185, as amended by Pub. L. 106–528, § 8(b), Nov. 22, 2000, 114 Stat. 2522, provided that:

''SEC. 801. SHORT TITLE.

''This title may be cited as the 'National Parks Air Tour Management Act of 2000'.

''SEC. 802. FINDINGS.

''Congress finds that—

''(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

''(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on public and tribal lands;

''(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

''(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

''(5) the National Parks Overflights Working Group, composed of general aviation, commercial air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on the Group's consensus work product; and

''(6) this title reflects the recommendations made by that Group.

''SEC. 803. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

''(a) IN GENERAL.—[Enacted this section.]

''(b) CONFORMING AMENDMENT.—[Amended analysis for chapter 401 of this title.]

''(c) COMPLIANCE WITH OTHER REGULATIONS.—For purposes of section 40128 of title 49, United States Code—

''(1) regulations issued by the Secretary of Transportation and the Administrator [of the Federal Aviation Administration] under section 3 of Public Law 100–91 (16 U.S.C. 1a–1 note); and

''(2) commercial air tour operations carried out in compliance with the requirements of those regulations,

shall be deemed to meet the requirements of such section 40128.

''SEC. 804. QUIET AIRCRAFT TECHNOLOGY FOR GRAND CANYON.

''(a) QUIET TECHNOLOGY REQUIREMENTS.—Within 12 months after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall designate reasonably achievable requirements for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as employing quiet aircraft technology for purposes of this section. If the Administrator determines that the Administrator will not be able to make such designation before the last day of such 12-month period, the Administrator shall transmit to Congress a report on the reasons for not meeting such time period and the expected date of such designation.

''(b) ROUTES OR CORRIDORS.—In consultation with the Director and the advisory group established under section 805, the Administrator shall establish, by rule, routes or corridors for commercial air tour operations (as defined in section 40128(f) of title 49, United States Code) by fixed-wing and helicopter aircraft that employ quiet aircraft technology for—

''(1) tours of the Grand Canyon originating in Clark County, Nevada; and

''(2) 'local loop' tours originating at the Grand Canyon National Park Airport, in Tusayan, Arizona,

provided that such routes or corridors can be located in areas that will not negatively impact the substantial restoration of natural quiet, tribal lands, or safety.

''(c) OPERATIONAL CAPS.—Commercial air tour operations by any fixed-wing or helicopter aircraft that employs quiet aircraft technology and that replaces an existing aircraft shall not be subject to the operational flight allocations that apply to other commercial air tour operations of the Grand Canyon, provided that the cumulative impact of such operations does not increase noise at the Grand Canyon.

''(d) MODIFICATION OF EXISTING AIRCRAFT TO MEET STANDARDS.—A commercial air tour operation by a fixed-wing or helicopter aircraft in a commercial air tour operator's fleet on the date of the enactment of this Act [Apr. 5, 2000] that meets the requirements designated under subsection (a), or is subsequently modified to meet the requirements designated under sub-

section (a), may be used for commercial air tour operations under the same terms and conditions as a replacement aircraft under subsection (c) without regard to whether it replaces an existing aircraft.

''(e) MANDATE TO RESTORE NATURAL QUIET.—Nothing in this Act [should be ''this title''] shall be construed to relieve or diminish—

''(1) the statutory mandate imposed upon the Secretary of the Interior and the Administrator of the Federal Aviation Administration under Public Law 100–91 (16 U.S.C. 1a–1 note) to achieve the substantial restoration of the natural quiet and experience at the Grand Canyon National Park; and

''(2) the obligations of the Secretary and the Administrator to promulgate forthwith regulations to achieve the substantial restoration of the natural quiet and experience at the Grand Canyon National Park.

''SEC. 805. ADVISORY GROUP.

''(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator [of the Federal Aviation Administration] and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The advisory group shall be composed of—

''(A) a balanced group of—

''(i) representatives of general aviation;

''(ii) representatives of commercial air tour operators;

''(iii) representatives of environmental concerns; and

''(iv) representatives of Indian tribes;

''(B) a representative of the Federal Aviation Administration; and

''(C) a representative of the National Park Service.

''(2) EX OFFICIO MEMBERS.—The Administrator (or the designee of the Administrator) and the Director (or the designee of the Director) shall serve as ex officio members.

''(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

''(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

''(1) on the implementation of this title and the amendments made by this title;

''(2) on commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

''(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

''(4) at the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.

''(d) COMPENSATION; SUPPORT; FACA.—

''(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

''(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

''(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.

''SEC. 806. PROHIBITION OF COMMERCIAL AIR TOUR OPERATIONS OVER THE ROCKY MOUNTAIN NATIONAL PARK.

''Effective beginning on the date of the enactment of this Act [Apr. 5, 2000], no commercial air tour operation may be conducted in the airspace over the Rocky Mountain National Park notwithstanding any other provision of this Act or section 40128 of title 49, United States Code.

''SEC. 807. REPORTS.

''(a) OVERFLIGHT FEE REPORT.—Not later than 180 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator [of the Federal Aviation Administration] shall transmit to Congress a report on the effects overflight fees are likely to have on the commercial air tour operation industry. The report shall include, but shall not be limited to—

''(1) the viability of a tax credit for the commercial air tour operators equal to the amount of any overflight fees charged by the National Park Service; and

''(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

''(b) QUIET AIRCRAFT TECHNOLOGY REPORT.—Not later than 2 years after the date of the enactment of this Act, the Administrator and the Director of the National Park Service shall jointly transmit a report to Congress on the effectiveness of this title in providing incentives for the development and use of quiet aircraft technology.

''SEC. 808. METHODOLOGIES USED TO ASSESS AIR TOUR NOISE.

''Any methodology adopted by a Federal agency to assess air tour noise in any unit of the national park system (including the Grand Canyon and Alaska) shall be based on reasonable scientific methods.

''SEC. 809. ALASKA EXEMPTION.

''The provisions of this title and section 40128 of title 49, United States Code, as added by section 803(a), do not apply to any land or waters located in Alaska.''

§ 40129. Collaborative decisionmaking pilot program

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a collaborative decisionmaking pilot program in accordance with this section.

(b) DURATION.—Except as provided in subsection (k), the pilot program shall be in effect for a period of 2 years.

(c) GUIDELINES.—

(1) ISSUANCE.—The Administrator, with the concurrence of the Attorney General, shall issue guidelines concerning the pilot program. Such guidelines, at a minimum, shall—

(A) define a capacity reduction event;

(B) establish the criteria and process for determining when a capacity reduction event exists that warrants the use of collaborative decisionmaking among carriers at airports participating in the pilot program; and

(C) prescribe the methods of communication to be implemented among carriers during such an event.

(2) VIEWS.—The Administrator may obtain the views of interested parties in issuing the guidelines.

(d) EFFECT OF DETERMINATION OF EXISTENCE OF CAPACITY REDUCTION EVENT.—Upon a determination by the Administrator that a capacity reduction event exists, the Administrator may authorize air carriers and foreign air carriers operating at an airport participating in the pilot program to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The Administration shall facilitate and monitor such communication. The Attorney General, or the Attorney General's designee, may monitor such communication.

(e) SELECTION OF PARTICIPATING AIRPORTS.—Not later than 30 days after the date on which the Administrator establishes the pilot program, the Administrator shall select 2 airports to participate in the pilot program from among the most capacity-constrained airports in the Nation based on the Administration's Airport Capacity Benchmark Report 2001 or more recent data on airport capacity that is available to the Administrator. The Administrator shall select an airport for participation in the pilot program if the Administrator determines that collaborative decisionmaking among air carriers and foreign air carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

(f) ELIGIBILITY OF AIR CARRIERS.—An air carrier or foreign air carrier operating at an airport selected to participate in the pilot program is eligible to participate in the pilot program if the Administrator determines that the carrier has the operational and communications capability to participate in the pilot program.

(g) MODIFICATION OR TERMINATION OF PILOT PROGRAM AT AN AIRPORT.—The Administrator, with the concurrence of the Attorney General, may modify or end the pilot program at an airport before the term of the pilot program has expired, or may ban an air carrier or foreign air carrier from participating in the program, if the Administrator determines that the purpose of the pilot program is not being furthered by participation of the airport or air carrier or if the Secretary of Transportation, with the concurrence of the Attorney General, finds that the pilot program or the participation of an air carrier or foreign air carrier in the pilot program has had, or is having, an adverse effect on competition among carriers.

(h) ANTITRUST IMMUNITY.—

(1) IN GENERAL.—Unless, within 5 days after receiving notice from the Secretary of the Secretary's intention to exercise authority under this subsection, the Attorney General submits to the Secretary a written objection to such action, including reasons for such objection, the Secretary may exempt an air carrier's or foreign air carrier's activities that are necessary to participate in the pilot program under this section from the antitrust laws for the sole purpose of participating in the pilot program. Such exemption shall not extend to any discussions, agreements, or activities outside the scope of the pilot program.

(2) ANTITRUST LAWS DEFINED.—In this section, the term ''antitrust laws'' has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(i) CONSULTATION WITH ATTORNEY GENERAL.—The Secretary shall consult with the Attorney General regarding the design and implementation of the pilot program, including determining whether a limit should be set on the number of occasions collaborative decisionmaking could be employed during the initial 2-year period of the pilot program.

(j) EVALUATION.—

(1) IN GENERAL.—Before the expiration of the 2-year period for which the pilot program is authorized under subsection (b), the Administrator shall determine whether the pilot program has facilitated more effective use of air traffic capacity and the Secretary, with the concurrence of the Attorney General, shall determine whether the pilot program has had an adverse effect on airline competition or the availability of air services to communities. The Administrator shall also examine whether capacity benefits resulting from the participation in the pilot program of an airport resulted in capacity benefits to other parts of the national airspace system.

(2) OBTAINING NECESSARY DATA.—The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program's impact.

(k) EXTENSION OF PILOT PROGRAM.—At the end of the 2-year period for which the pilot program is authorized, the Administrator, with the concurrence of the Attorney General, may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (j) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary, with the concurrence of the Attorney General, determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.

(Added Pub. L. 108–176, title IV, § 423(a), Dec. 12, 2003, 117 Stat. 2552.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

SUBPART II—ECONOMIC REGULATION

CHAPTER 411—AIR CARRIER CERTIFICATES

Sec.
41101. Requirement for a certificate.
41102. General, temporary, and charter air transportation certificates of air carriers.

Sec.
41103. All-cargo air transportation certificates of air carriers.
41104. Additional limitations and requirements of charter air carriers.
41105. Transfers of certificates.
41106. Airlift service.
41107. Transportation of mail.
41108. Applications for certificates.
41109. Terms of certificates.
41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates.
41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates.
41112. Liability insurance and financial responsibility.
41113. Plans to address needs of families of passengers involved in aircraft accidents.

AMENDMENTS

1996—Pub. L. 104–264, title VII, § 703(b), Oct. 9, 1996, 110 Stat. 3268, added item 41113.

§ 41101. Requirement for a certificate

(a) GENERAL.—Except as provided in this chapter or another law—

(1) an air carrier may provide air transportation only if the air carrier holds a certificate issued under this chapter authorizing the air transportation;

(2) a charter air carrier may provide charter air transportation only if the charter air carrier holds a certificate issued under this chapter authorizing the charter air transportation; and

(3) an air carrier may provide all-cargo air transportation only if the air carrier holds a certificate issued under this chapter authorizing the all-cargo air transportation.

(b) THROUGH SERVICE AND JOINT TRANSPORTATION.—A citizen of the United States providing transportation in a State of passengers or property as a common carrier for compensation with aircraft capable of carrying at least 30 passengers, under authority granted by the appropriate State authority—

(1) may provide transportation for passengers and property that includes through service by the citizen over its routes in the State and in air transportation by an air carrier or foreign air carrier; and

(2) subject to sections 41309 and 42111 of this title, may make an agreement with an air carrier or foreign air carrier to provide the joint transportation.

(c) PROPRIETARY OR EXCLUSIVE RIGHT NOT CONFERRED.—A certificate issued under this chapter does not confer a proprietary or exclusive right to use airspace, an airway of the United States, or an air navigation facility.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1118.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41101(a)(1) ..	49 App.:1371(a).	Aug. 23, 1958, Pub. L. 85–726, § 401(a), (i), 72 Stat. 754, 756.
41101(a)(2) ..	49 App.:1301(14) (related to certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 101(14) (related to certificate); added Oct. 24, 1978, Pub. L. 95–504, § 2(a)(1), 92 Stat. 1705.
41101(a)(3) ..	(no source).	
41101(b)	49 App.:1371(d)(4)(A)(i), (ii) (related to joint services).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(4)(A)(i), (ii) (related to joint services); added Nov. 9, 1977, Pub. L. 95–163, § 9, 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, § 9, 92 Stat. 1713.
41101(c)	49 App.:1371(i).	

In subsections (a)(2) and (c), the words ''issued under this chapter'' are added for clarity.

In subsection (a), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title. The words before clause (1) are added to inform the reader that other provisions of the chapter and other laws qualify the requirement of being licensed by the Secretary of Transportation. In clause (1), the word ''holds'' is substituted for ''there is in force'' to eliminate unnecessary words. The words ''under this chapter'' are substituted for ''by the Board'' for clarity. In clause (2), the words ''of public convenience and necessity'' are omitted as surplus. Clause (3) is included to inform the reader at the beginning of this chapter about all of the types of certificates and permits that the Secretary may issue under this subchapter.

In subsection (b), the word ''passengers'' is substituted for ''persons'' for consistency in the revised title. Before clause (1), the words ''Notwithstanding any other provision of this chapter'' are omitted as surplus. The words ''providing transportation'' are substituted for ''undertakes . . . the carriage of'' for consistency in the revised title. The words ''or hire'' are omitted as surplus and for consistency. The words ''for such carriage within such State'' are omitted as surplus. In clause (1), the words ''through service'' are substituted for ''transportation'' the first time it appears for clarity. In clause (2), the words ''the requirements of'' and ''for such through services'' are omitted as surplus.

In subsection (c), the word ''property'' is omitted as surplus. The words ''landing area'' are omitted because they are included in the definition of ''air navigation facility'' in section 40102(a) of the revised title.

§ 41102. General, temporary, and charter air transportation certificates of air carriers

(a) ISSUANCE.—The Secretary of Transportation may issue a certificate of public convenience and necessity to a citizen of the United States authorizing the citizen to provide any part of the following air transportation the citizen has applied for under section 41108 of this title:

(1) air transportation as an air carrier.

(2) temporary air transportation as an air carrier for a limited period.

(3) charter air transportation as a charter air carrier.

(b) FINDINGS REQUIRED FOR ISSUANCE.—(1) Before issuing a certificate under subsection (a) of this section, the Secretary must find that the citizen is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) In addition to the findings under paragraph (1) of this subsection, the Secretary, before issuing a certificate under subsection (a) of this section for foreign air transportation, must find that the transportation is consistent with the public convenience and necessity.

(c) TEMPORARY CERTIFICATES.—The Secretary may issue a certificate under subsection (a) of

this section for interstate air transportation (except the transportation of passengers) or foreign air transportation for a temporary period of time (whether the application is for permanent or temporary authority) when the Secretary decides that a test period is desirable—

(1) to decide if the projected services, efficiencies, methods, and prices and the projected results will materialize and remain for a sustained period of time; or

(2) to evaluate the new transportation.

(d) FOREIGN AIR TRANSPORTATION.—The Secretary shall submit each decision authorizing the provision of foreign air transportation to the President under section 41307 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1119.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41102(a)	49 App.:1371(d)(1) (words before 1st comma and after semicolon), (2) (1st–32d words).	Aug. 23, 1958, Pub. L. 85–726, § 401(d)(1), (2), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, § 8, 92 Stat. 1712; restated Feb. 15, 1980, Pub. L. 96–192, § 4, 94 Stat. 37.
	49 App.:1371(d)(3) (words before 6th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(3); added July 10, 1962, Pub. L. 87–528, § 2, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95–504, § 8, 92 Stat. 1712; restated Feb. 15, 1980, Pub. L. 96–192, § 4, 94 Stat. 37.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41102(b)(1) ..	49 App.:1371(d)(1) (words between 1st and last commas), (2) (42d–last words), (3) (words after 7th comma).	
	49 App.:1551(b)(1)(E).	
41102(b)(2) ..	49 App.:1371(d)(1) (words between last comma and semicolon), (2) (33d–41st words), (3) (words between 6th and 7th commas).	
	49 App.:1551(a)(1)(A).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(A), (B); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	
41102(c)	49 App.:1371(d)(8) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(8) (1st sentence); added Oct. 24, 1978, Pub. L. 95–504, § 13, 92 Stat. 1718.
	49 App.:1551(a)(1)(B), (b)(1)(E).	
41102(d)	(no source).	

In this section, the words ''citizen of the United States'' and ''citizen'' are substituted for ''applicant'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title, and only an air carrier may be a ''charter air carrier'' as defined in section 40102(a). The word ''provide'' is substituted for ''perform'' for consistency in the revised title.

In subsection (a), before clause (1), the words ''of public convenience and necessity'' are added for clarity. The words ''any part of'' are substituted for ''the whole or any part of'' to eliminate unnecessary words. In clauses (2) and (3), the words ''In the case of'' are omitted as surplus. In clause (3), the words ''for such periods'' are omitted as surplus.

In subsection (b)(1), the word ''comply'' is substituted for ''conform'' for consistency in the revised title. The words ''properly'' and ''requirements'' are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''.

In subsection (b)(2), the words ''foreign air transportation'' are added because 49 App.:1551(a)(1)(A) provides that 49 App.:1371(d)(1)–(3) no longer applies to interstate or overseas transportation of persons. After January 1, 1985, other interstate and overseas air transportation and the domestic air transportation of mail do not require a certificate of public convenience and necessity. See H. Rept. 98–793, 98th Cong., 2d Sess., p.10 (1984).

In subsection (c), before clause (1), the words ''issue a certificate'' are substituted for ''grant an application'' for consistency in this chapter. The words ''for interstate air transportation (except the transportation of passengers) or foreign air transportation'' are added for clarity and consistency. The word ''only'' is omitted as surplus. In clause (1), the word ''prices'' is substituted for ''rates, fares, charges'' because of the definition of ''price'' in section 40102(a) of the revised title. The words ''in fact'' are omitted as surplus. In clause (2), the words ''to assess the impact of the new services on the national air route structure, or otherwise'' are omitted as surplus.

Subsection (d) is added for clarity.

§ 41103. All-cargo air transportation certificates of air carriers

(a) APPLICATIONS.—A citizen of the United States may apply to the Secretary of Transportation for a certificate authorizing the citizen to provide all-cargo air transportation. The application must contain information and be in the form the Secretary by regulation requires.

(b) ISSUANCE.—Not later than 180 days after an application for a certificate is filed under this section, the Secretary shall issue the certificate to a citizen of the United States authorizing the citizen, as an air carrier, to provide any part of the all-cargo air transportation applied for unless the Secretary finds that the citizen is not fit, willing, and able to provide the all-cargo air transportation to be authorized by the certificate and to comply with regulations of the Secretary.

(c) TERMS.—The Secretary may impose terms the Secretary considers necessary when issuing a certificate under this section. However, the Secretary may not impose terms that restrict the places served or prices charged by the holder of the certificate.

(d) EXEMPTIONS AND STATUS.—A citizen issued a certificate under this section—

(1) is exempt in providing the transportation under the certificate from the requirements of—

(A) section 41101(a)(1) of this title and regulations or procedures prescribed under section 41101(a)(1); and

(B) other provisions of this part and regulations or procedures prescribed under those provisions when the Secretary finds under regulations of the Secretary that the exemption is appropriate; and

(2) is an air carrier under this part except to the extent the carrier is exempt under this section from a requirement of this part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1119; Pub. L. 103–429, § 6(49), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41103(a)	49 App.:1388(a)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(a)(4); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95–245, § 1, 92 Stat. 156.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41103(b)	49 App.:1388(b)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(b)(1)(B); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95–245, § 3, 92 Stat. 156.
	49 App.:1551(b)(1)(E).	
41103(c)	49 App.:1388(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(b)(2), (c), (d); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285.
	49 App.:1551(b)(1)(E).	
41103(d)(1) ..	49 App.:1388(c).	
	49 App.:1551(b)(1)(E).	
41103(d)(2) ..	49 App.:1388(d).	

In subsection (a), the words ''After the three hundred and sixty-fifth day which begins after November 9, 1977'' are omitted as executed. The words ''under this section'' are omitted as surplus. The words ''authorizing the citizen'' are added for clarity and consistency in this chapter.

In subsection (b), the words ''pursuant to paragraph (4) of subsection (a) of this section'' are omitted as surplus. The word ''citizen'' is substituted for ''applicant'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title and only an air carrier can provide all–cargo air transportation. The words ''to provide'' are added for clarity and consistency in this subchapter. The word ''rules'' is omitted as being synonymous with ''regulations''. The word ''promulgated'' is omitted as surplus.

In subsection (c), the words ''reasonable'', ''and limitations'', and ''and conditions'' are omitted as surplus. The word ''places'' is substituted for ''points'' for consistency in the revised title.

PUB. L. 103–429

This amends 49:41103(a) to make the term consistent throughout subtitle VII of title 49.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429 substituted ''all-cargo'' for ''all-property''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 41104. Additional limitations and requirements of charter air carriers

(a) RESTRICTIONS.—The Secretary of Transportation may prescribe a regulation or issue an order restricting the marketability, flexibility, accessibility, or variety of charter air transportation provided under a certificate issued under section 41102 of this title only to the extent required by the public interest. A regulation prescribed or order issued under this subsection may not be more restrictive than a regulation related to charter air transportation that was in effect on October 1, 1978.

(b) SCHEDULED OPERATIONS.—

(1) IN GENERAL.—Except as provided in paragraphs (3) and (4), an air carrier, including an indirect air carrier, may not provide, in aircraft designed for more than 9 passenger seats, regularly scheduled charter air transportation, for which the public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flight, to or from an airport that—

(A) does not have an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation); or

(B) has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation) if the airport—

(i) is a reliever airport (as defined in section 47102) and is designated as such in the national plan of integrated airports maintained under section 47103; and

(ii) is located within 20 nautical miles (22 statute miles) of 3 or more airports that each annually account for at least 1 percent of the total United States passenger enplanements and at least 2 of which are operated by the sponsor of the reliever airport.

(2) DEFINITION.—In this paragraph, the term ''regularly scheduled charter air transportation'' does not include operations for which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative.

(3) EXCEPTION.—This subsection does not apply to any airport in the State of Alaska or to any airport outside the United States.

(4) WAIVERS.—The Secretary may waive the application of paragraph (1)(B) in cases in which the Secretary determines that the public interest so requires.

(c) ALASKA.—An air carrier holding a certificate issued under section 41102 of this title may provide charter air transportation between places in Alaska only to the extent the Secretary decides the transportation is required by public convenience and necessity. The Secretary may make that decision when issuing, amending, or modifying the certificate. This subsection does not apply to a certificate issued under section 41102 to a citizen of the United States who, before July 1, 1977—

(1) maintained a principal place of business in Alaska; and

(2) conducted air transport operations between places in Alaska with aircraft with a certificate for gross takeoff weight of more than 40,000 pounds.

(d) SUSPENSIONS.—(1) The Secretary shall suspend for not more than 30 days any part of the certificate of a charter air carrier if the Secretary decides that the failure of the carrier to comply with the requirements described in sections 41110(e) and 41112 of this title, or a regulation or order of the Secretary under section 41110(e) or 41112, requires immediate suspension in the interest of the rights, welfare, or safety of the public. The Secretary may act under this paragraph without notice or a hearing.

(2) The Secretary shall begin immediately a hearing to decide if the certificate referred to in

paragraph (1) of this subsection should be amended, modified, suspended, or revoked. Until the hearing is completed, the Secretary may suspend the certificate for additional periods totaling not more than 60 days. If the Secretary decides that the carrier is complying with the requirements described in sections 41110(e) and 41112 of this title and regulations and orders under sections 41110(e) and 41112, the Secretary immediately may end the suspension period and proceeding begun under this subsection. However, the Secretary is not prevented from imposing a civil penalty on the carrier for violating the requirements described in section 41110(e) or 41112 or a regulation or order under section 41110(e) or 41112.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1120; Pub. L. 106–181, title VII, § 723, Apr. 5, 2000, 114 Stat. 165; Pub. L. 106–528, § 8(c), Nov. 22, 2000, 114 Stat. 2522; Pub. L. 108–176, title VIII, § 822, Dec. 12, 2003, 117 Stat. 2594.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41104(a)	49 App.:1371(n)(2), (4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(2)–(4); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 144; restated Oct. 24, 1978, Pub. L. 95–504, § 20(b), 92 Stat. 1721.
	49 App.:1551(a)(1)(E) (related to 49 App.:1371(n)(4)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(E) (related to § 401(n)(4)); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41104(b)	49 App.:1371(n)(3). 49 App.:1551(b)(1)(E).	
41104(c)	49 App.:1371(n)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(5); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 145; Oct. 24, 1978, Pub. L. 95–504, § 20(c), 92 Stat. 1722.
	49 App.:1371(n)(6).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(6); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 145.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word ''rule'' is omitted as being synonymous with ''regulation''. The words ''charter air transportation'' are substituted for ''charter trips'' for consistency in this part. The text of 49 App.:1371(n)(4) and 1551(n)(1)(E) (related to 49 App.:1371(n)(4)) is omitted because inclusive tour charters have been abolished and charter air carriers have received authority to sell public charter flights directly to the public.

In subsection (b), before clause (1), the words ''Notwithstanding any other provision of this subchapter'' are omitted as surplus. The words ''An air carrier holding'' are added for clarity. The words ''State of'' are omitted as surplus. The word ''modifying'' is added for consistency in the revised title. The words ''citizen of the United States'' are substituted for ''person'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title.

In subsection (c), the words ''the requirements described in'' are added for clarity.

In subsection (c)(1), the text of 49 App.:1371(n)(6) is omitted as surplus because of 49:322(a).

In subsection (c)(2), the word ''amended'' is added for consistency in the revised title.

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108–176, § 822(a), inserted a comma after ''regularly scheduled charter air transportation'', substituted ''paragraphs (3) and (4)'' for ''paragraph (3)'' and ''flight, to or from an airport that—'' for ''flight unless such air transportation is to and from an airport that has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation).'', and added subpars. (A) and (B).

Subsec. (b)(4). Pub. L. 108–176, § 822(b), added par. (4).

2000—Subsec. (b). Pub. L. 106–181, § 723(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (b)(1). Pub. L. 106–528, § 8(c)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''An air carrier, including an indirect air carrier, which operates aircraft designed for more than nine passenger seats, may not provide regularly scheduled charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights to or from an airport that is not located in Alaska and that does not have an operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulations).''

Subsec. (b)(3). Pub. L. 106–528, § 8(c)(2), added par. (3).

Subsecs. (c), (d). Pub. L. 106–181, § 723(1), redesignated subsecs. (b) and (c) as (c) and (d), respectively.

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 2000 AMENDMENTS

Amendment by Pub. L. 106–528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106–528, set out as a note under section 106 of this title.

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 41105. Transfers of certificates

(a) GENERAL.—A certificate issued under section 41102 of this title may be transferred only when the Secretary of Transportation approves the transfer as being consistent with the public interest.

(b) CERTIFICATION TO CONGRESS.—When a certificate is transferred, the Secretary shall certify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that the transfer is consistent with the public interest. The Secretary shall include with the certification a report analyzing the effects of the transfer on—

(1) the viability of each carrier involved in the transfer;

(2) competition in the domestic airline industry; and

(3) the trade position of the United States in the international air transportation market.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1121; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41105(a)	49 App.:1371(h)(1).	Aug. 23, 1958, Pub. L. 85–726, § 401(h)(1), 72 Stat. 756; Nov. 5, 1990, Pub. L. 101–508, § 9127(1), 104 Stat. 1388–371.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41105(b)	49 App.:1371(h)(2), (3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(h)(2), (3); added Nov. 5, 1990, Pub. L. 101–508, § 9127(2), 104 Stat. 1388–371.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

§ 41106. Airlift service

(a) INTERSTATE TRANSPORTATION.—(1) Except as provided in subsection (d) of this section, the transportation of passengers or property by transport category aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service in the United States may be provided only by an air carrier that—

(A) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(B) holds a certificate issued under section 41102 of this title.

(2) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of this title to provide airlift service.

(b) TRANSPORTATION BETWEEN THE UNITED STATES AND FOREIGN LOCATIONS.—Except as provided in subsection (d), the transportation of passengers or property by transport category aircraft between a place in the United States and a place outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a).

(c) TRANSPORTATION BETWEEN FOREIGN LOCATIONS.—The transportation of passengers or property by transport category aircraft between two places outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier that has aircraft in the civil reserve air fleet whenever transportation by such an air carrier is reasonably available.

(d) EXCEPTION.—When the Secretary of Defense decides that no air carrier holding a certificate under section 41102 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1121; Pub. L. 106–398, § 1 [[div. A], title III, § 385(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–87.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41106	49 App.:1371(*o*).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(*o*); added July 12, 1976, Pub. L. 94–353, § 18(a), 90 Stat. 883.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the word ''passengers'' is substituted for ''persons'' for consistency in the revised title. The words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:113(a). The words ''an air carrier'' are substituted for ''carriers'' for clarity.

In subsection (b), the words ''to provide the service'' are added for clarity.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title III, § 385(a)(1), (b)], in heading substituted ''Interstate Transportation'' for ''General'' and in introductory provisions of par. (1), substituted ''Except as provided in subsection (d) of this section,'' for ''Except as provided in subsection (b) of this section,'' and struck out ''of at least 31 days'' after ''through a contract''.

Subsecs. (b) to (d). Pub. L. 106–398, § 1 [[div. A], title III, § 385(a)(2), (3)], added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title III, § 385(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–87, provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 2000.''

§ 41107. Transportation of mail

When the United States Postal Service finds that the needs of the Postal Service require the transportation of mail by aircraft in foreign air transportation or between places in Alaska, in addition to the transportation of mail authorized under certificates in effect, the Postal Service shall certify that finding to the Secretary of Transportation with a statement about the additional transportation and facilities necessary to provide the additional transportation. A copy of each certification and statement shall be posted for at least 20 days in the office of the Secretary. After notice and an opportunity for a hearing, the Secretary shall issue a new certificate under section 41102 of this title, or amend or modify an existing certificate under section 41110(a)(2)(A) of this title, to provide the additional transportation and facilities if the Secretary finds the additional transportation is required by the public convenience and necessity.

(Pub. L. 103–272, §§ 1(e), 4(k)(1), July 5, 1994, 108 Stat. 1121, 1370; Pub. L. 106–31, title VI, § 6003, May 21, 1999, 113 Stat. 113.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, § 1(e)

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41107	49 App.:1371(m).	Aug. 23, 1958, Pub. L. 85–726, § 401(m), 72 Stat. 757.
	49 App.:1551(a)(4)(A) (related to 49 App.:1371(m)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(A) (related to § 401(m)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.

The words ''from time to time'' are omitted as surplus. The words ''United States Postal Service'' and ''Postal Service'' are substituted for ''Postmaster Gen-

eral'' in section 401(m) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 757) because of sections 4(a) and 6(*o*) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773, 783). The words ''in foreign air transportation or between places in Alaska'' are substituted for ''between any points within the United States or between the United States and foreign countries'' for consistency in the revised title and because 49 App.:1551(a)(4)(A) provides that 49 App.:1371(m) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). In addition, Congress did not intend to maintain the regulation of domestic air transportation of mail. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The word ''currently'' is omitted as surplus. The words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code. The words ''or certificates'' are omitted as surplus because of 1:1. The word ''modify'' is added for consistency in the revised title.

PUB. L. 103–272, § 4(k)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41107	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, § 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

AMENDMENTS

1999—Pub. L. 106–31 repealed Pub. L. 103–272, § 4(k). See 1994 Amendment note below.

1994—Pub. L. 103–272, § 4(k)(1), which directed the amendment of this section by substituting ''foreign air transportation,'' for ''foreign air transportation or between places in Alaska,'', effective Jan. 1, 1999, was repealed by Pub. L. 106–31, § 6003, effective Dec. 31, 1998.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–31, title VI, § 6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4(k) of Pub. L. 103–272 which provided that the amendments made by that section (amending this section and sections 41901, 41902, and 41903 of this title) were effective Jan. 1, 1999, was repealed by Pub. L. 106–31, title VI, § 6003, May 21, 1999, 113 Stat. 113, effective Dec. 31, 1998.

§ 41108. Applications for certificates

(a) FORM, CONTENTS, AND PROOF OF SERVICE.—To be issued a certificate of public convenience and necessity under section 41102 of this title, a citizen of the United States must apply to the Secretary of Transportation. The application must—

(1) be in the form and contain information required by regulations of the Secretary; and

(2) be accompanied by proof of service on interested persons as required by regulations of the Secretary and on each community that may be affected by the issuance of the certificate.

(b) NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the certificate. Not later than 90 days after the application is filed, the Secretary shall—

(A) provide an opportunity for a public hearing on the application;

(B) begin the procedure under section 41111 of this title; or

(C) dismiss the application on its merits.

(2) An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection is a final order and may be reviewed judicially under section 46110 of this title.

(3) If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection, an initial or recommended decision shall be issued not later than 150 days after the date the Secretary provides the opportunity. The Secretary shall issue a final order on the application not later than 90 days after the decision is issued. However, if the Secretary does not act within the 90-day period, the initial or recommended decision on an application to provide—

(A) interstate air transportation is a final order and may be reviewed judicially under section 46110 of this title; and

(B) foreign air transportation shall be submitted to the President under section 41307 of this title.

(4) If the Secretary acts under paragraph (1)(B) of this subsection, the Secretary shall issue a final order on the application not later than 180 days after beginning the procedure on the application.

(5) If a citizen applying for a certificate does not meet the procedural schedule adopted by the Secretary in a proceeding, the Secretary may extend the period for acting under paragraphs (3) and (4) of this subsection by a period equal to the period of delay caused by the citizen. In addition to an extension under this paragraph, an initial or recommended decision under paragraph (3) of this subsection may be delayed for not more than 30 days in extraordinary circumstances.

(c) PROOF REQUIREMENTS.—(1) A citizen applying for a certificate must prove that the citizen is fit, willing, and able to provide the transpor-

tation referred to in section 41102 of this title and to comply with this part.

(2) A person opposing a citizen applying for a certificate must prove that the transportation referred to in section 41102(b)(2) of this title is not consistent with the public convenience and necessity. The transportation is deemed to be consistent with the public convenience and necessity unless the Secretary finds, by a preponderance of the evidence, that the transportation is not consistent with the public convenience and necessity.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1121.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41108(a)	49 App.:1371(b).	Aug. 23, 1958, Pub. L. 85–726, § 401(b), 72 Stat. 754; Oct. 24, 1978, Pub. L. 95–504, § 6, 92 Stat. 1710.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41108(b)	49 App.:1371(c).	Aug. 23, 1958, Pub. L. 85–726, 401(c), 72 Stat. 754; restated Oct. 24, 1978, Pub. L. 95–504, § 7(a), 92 Stat. 1711.
	49 App.:1551(b)(1)(E).	
41108(c)	49 App.:1371(d)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(9); added Oct. 24, 1978, Pub. L. 95–504, § 14, 92 Stat. 1719.
	49 App.:1551(b)(1)(E).	

In subsection (a), the words ''of public convenience and necessity under section 41102 of this title'' are added for clarity.

In subsection (b)(1), before clause (A), the words ''give due notice thereof to the public by'' are omitted as surplus. The word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The words ''requested by such application'' are omitted as surplus. Clause (A) is substituted for 49 App.:1371(c)(1)(A) for clarity and consistency. Clause (B) is substituted for 49 App.:1371(c)(1)(B) to eliminate unnecessary words.

In subsection (b)(2), the words ''An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection'' are substituted for ''Any order of dismissal of an application issued by the Board without setting such application for a hearing or beginning to make a determination with respect to such application under such simplified procedures'' to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words ''If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection'' are substituted for ''If the Board determines that any application should be set for a public hearing under clause (A) of the second sentence of paragraph (1) of this subsection'' to eliminate unnecessary words. The words ''provides the opportunity'' are substituted for ''of such determination'' for clarity. The words ''for a certificate'' are omitted as surplus. The words ''to provide'' are substituted for ''to engage in'' for consistency in the revised title.

In subsection (b)(4), the words ''If the Secretary acts under paragraph (1)(B) of this subsection'' are added for clarity. The words ''after beginning the procedure on the application'' are substituted for ''after the Board begins to make a determination with respect to an application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section'' to eliminate unnecessary words.

In subsection (b)(5), the word ''particular'' is omitted as surplus. The words ''by order'' are omitted as surplus because of 5:ch. 5, subch. II.

In subsection (c)(1), the words ''In any determination as to whether or not'' are omitted as surplus. The word ''provide'' is substituted for ''perform'' for consistency in the revised title. The word ''properly'' is omitted as surplus. The word ''comply'' is substituted for ''conform'' for consistency in the revised title.

In subsection (c)(2), the words ''In any determination as to whether'' are omitted as surplus. The reference is to section 41102(b)(2), rather than 41102(a), of the revised title to reflect the termination of authority under 49 App.:1551(a)(1)(A).

§ 41109. Terms of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title shall specify the type of transportation to be provided.

(2) The Secretary of Transportation—

(A) may prescribe terms for providing air transportation under the certificate that the Secretary finds may be required in the public interest; but

(B) may not prescribe a term preventing an air carrier from adding or changing schedules, equipment, accommodations, and facilities for providing the authorized transportation to satisfy business development and public demand.

(3) A certificate issued under section 41102 of this title to provide foreign air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each general route to be followed. The Secretary shall authorize an air carrier holding a certificate to provide foreign air transportation to handle and transport mail of countries other than the United States.

(4) A certificate issued under section 41102 of this title to provide foreign charter air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each geographical area in which, or between which, the transportation may be provided.

(5) As prescribed by regulation by the Secretary, an air carrier other than a charter air carrier may provide charter trips or other special services without regard to the places named or type of transportation specified in its certificate.

(b) MODIFYING TERMS.—(1) An air carrier may file with the Secretary an application to modify any term of its certificate issued under section 41102 of this title to provide interstate or foreign air transportation. Not later than 60 days after an application is filed, the Secretary shall—

(A) provide the carrier an opportunity for an oral evidentiary hearing on the record; or

(B) begin to consider the application under section 41111 of this title.

(2) The Secretary shall modify each term the Secretary finds to be inconsistent with the criteria under section 40101(a) and (b) of this title.

(3) An application under this subsection may not be dismissed under section 41108(b)(1)(C) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1123; Pub. L. 104–287, § 5(70), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41109(a)(1) ..	49 App.:1371(e)(1) (words before semicolon).	Aug. 23, 1958, Pub. L. 85–726, § 401(e)(1), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, § 3, 76 Stat. 143.
	49 App.:1551(a)(1)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(C); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
41109(a)(2) ..	49 App.:1371(e)(1) (words after semicolon).	
	49 App.:1371(e)(4).	Aug. 23, 1958, Pub. L. 85–726, § 401(e)(3), (4), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, § 3, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95–504, § 15(a), (b), 92 Stat. 1719.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41109(a)(3) ..	49 App.:1371(e)(2).	Aug. 23, 1958, Pub. L. 85–726, § 401(e)(2), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, § 3, 76 Stat. 143; Feb. 15, 1980, Pub. L. 96–192, § 5, 94 Stat. 37.
	49 App.:1551(b)(1)(E).	
41109(a)(4) ..	49 App.:1371(e)(3).	
	49 App.:1551(b)(1)(E).	
41109(b)	49 App.:1371(e)(7)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(e)(7)(B); added Oct. 24, 1978, Pub. L. 95–504, § 16, 92 Stat. 1720.
	49 App.:1551(b)(1)(E).	

In subsection (a)(1), the text of 49 App.:1371(e)(1) (words before semicolon related to terminal and intermediate points) is omitted as obsolete because of 49 App.:1551(a)(1)(C) and because interstate and overseas air transportation is no longer regulated. The words ''type of'' are added for clarity. The word ''provided'' is substituted for ''rendered'' for consistency in the revised title.

In subsection (a)(2), the words before clause (A) are added for clarity. Clause (A) is substituted for 49 App.:1371(e)(1) (words after semicolon) for clarity and consistency and to eliminate unnecessary words. In clause (B), the words ''may not prescribe a term preventing'' are substituted for ''No term, condition, or limitation of a certificate shall restrict the right'' for clarity and consistency. The word ''providing'' is substituted for ''performing'' for consistency in the revised title.

In subsection (a)(3) and (4), the word ''places'' is substituted for ''points'', and the word ''provide'' is substituted for ''engage in'', for consistency in the revised title. The words ''terminal and intermediate'' are omitted as surplus. The words ''between which the air carrier is authorized to provide the transportation'' are added for clarity and consistency.

In subsection (a)(3), the words ''or routes'' are omitted because of 1:1. The words ''The Secretary'' are added for clarity.

In subsection (a)(4), the words ''or areas'' are omitted because of 1:1.

In subsection (b), the words ''condition, or limitation'' are omitted as being included in ''term''.

In subsection (b)(1), before clause (A), the word ''modify'' is substituted for ''removal or modification'' to eliminate unnecessary words. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title. In clause (A), the words ''provide the carrier an opportunity'' are substituted for ''set such application'' for consistency in the revised title and with other titles of the United States Code. In clause (B), the words ''the simplified procedures established by the Board in regulations pursuant to'' are omitted as surplus.

PUB. L. 104–287

This amends 49:41109(a) to clarify the restatement of 49 App.:1371(e) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1123).

AMENDMENTS

1996—Subsec. (a)(5). Pub. L. 104–287 added par. (5).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

§ 41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title is effective from the date specified in it and remains in effect until—

(A) the Secretary of Transportation suspends or revokes the certificate under this section;

(B) the end of the period the Secretary specifies for an air carrier having a certificate of temporary authority issued under section 41102(a)(2) of this title; or

(C) the Secretary certifies that transportation is no longer being provided under a certificate.

(2) On application or on the initiative of the Secretary and after notice and an opportunity for a hearing or, except as provided in paragraph (4) of this subsection, under section 41111 of this title, the Secretary may—

(A) amend, modify, or suspend any part of a certificate if the Secretary finds the public convenience and necessity require amendment, modification, or suspension; and

(B) revoke any part of a certificate if the Secretary finds that the holder of the certificate intentionally does not comply with this chapter, sections 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, a regulation or order of the Secretary under any of those provisions, or a term of its certificate.

(3) The Secretary may revoke a certificate under paragraph (2)(B) of this subsection only if the holder of the certificate does not comply, within a reasonable time the Secretary specifies, with an order to the holder requiring compliance.

(4) A certificate to provide foreign air transportation may not be amended, modified, suspended, or revoked under section 41111 of this title if the holder of the certificate requests an oral evidentiary hearing or the Secretary finds, under all the facts and circumstances, that the hearing is required in the public interest.

(b) ALL-CARGO AIR TRANSPORTATION.—The Secretary may order that a certificate issued under section 41103 of this title authorizing all-cargo air transportation is ineffective if, after notice and an opportunity for a hearing, the Secretary finds that the transportation is not provided to the minimum extent specified by the Secretary.

(c) FOREIGN AIR TRANSPORTATION.—(1) Notwithstanding subsection (a)(2)–(4) of this sec-

tion, after notice and a reasonable opportunity for the affected air carrier to present its views, but without a hearing, the Secretary may suspend or revoke the authority of an air carrier to provide foreign air transportation to a place under a certificate issued under section 41102 of this title if the carrier—

(A) notifies the Secretary, under section 41734(a) of this title or a regulation of the Secretary, that it intends to suspend all transportation to that place; or

(B) does not provide regularly scheduled transportation to the place for 90 days immediately before the date the Secretary notifies the carrier of the action the Secretary proposes.

(2) Paragraph (1)(B) of this subsection does not apply to a place provided seasonal transportation comparable to the transportation provided during the prior year.

(d) TEMPORARY CERTIFICATES.—On application or on the initiative of the Secretary, the Secretary may—

(1) review the performance of an air carrier issued a certificate under section 41102(c) of this title on the basis that the air carrier will provide innovative or low-priced air transportation under the certificate; and

(2) amend, modify, suspend, or revoke the certificate or authority under subsection (a)(2) or (c) of this section if the air carrier has not provided, or is not providing, the transportation.

(e) CONTINUING REQUIREMENTS.—(1) To hold a certificate issued under section 41102 of this title, an air carrier must continue to be fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

(A) is not fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

(B) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (A) of this paragraph.

(f) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the United States Government, shall reexamine immediately the fitness of an air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the certificate of the carrier issued under this chapter.

(g) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a certificate under subsection (a) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1123; Pub. L. 103–429, § 6(50), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41110(a)(1) ..	49 App.:1371(f).	Aug. 23, 1958, Pub. L. 85–726, § 401(f), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, §§ 10(b), 17, 92 Stat. 1716, 1720.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41110(a)(2)–(4).	49 App.:1371(g)(1).	Aug. 23, 1958, Pub. L. 85–726, § 401(g), 72 Stat. 756; Oct. 24, 1978, Pub. L. 95–504, § 18, 92 Stat. 1720; restated Feb. 15, 1980, Pub. L. 96–192, § 6, 94 Stat 37.
	49 App.:1551(b)(1)(E).	
41110(b)	49 App.:1388(b)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(b)(4); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285.
	49 App.:1551(b)(1)(E).	
41110(c)	49 App.:1371(g)(3).	
	49 App.:1551(b)(1)(E).	
41110(d)	49 App.:1371(d)(8) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(8) (last sentence); added Oct. 24, 1978, Pub. L. 95–504, § 13, 92 Stat. 1719.
	49 App.:1551(a)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(B); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	
41110(e)	49 App.:1371(r) (related to certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(r) (related to certificate); added Oct. 24, 1978, Pub. L. 95–504, § 20(d)(1), 92 Stat. 1722.
	49 App.:1551(b)(1)(E).	
41110(f)	49 App.:1371a (related to certificate).	Aug. 15, 1985, Pub. L. 99–88, § 100 (1st complete par. related to certificate on p. 352), 99 Stat. 352.
41110(g)	49 App.:1371(g)(2).	
	49 App.:1551(b)(1)(E).	

In subsection (a)(1)(C), the words ''transportation is no longer being provided under a certificate'' are substituted for ''operation thereunder has ceased'' and ''operations thereunder have ceased'' for clarity and consistency.

In subsections (a)(2) and (e), the words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), before clause (A), the word ''application'' is substituted for ''petition or complaint'' for consistency in the revised title and with other titles of the Code and to eliminate unnecessary words. The words ''except as provided in paragraph (4) of this subsection'' are added for clarity. The words ''the simplified procedures under'' are omitted as surplus. In clause (A), the word ''alter'' is omitted as surplus. In clause (B), the reference to 49 App.:1372 is omitted from the cross-references of ''this subchapter'' because 49 App.:1372 is concerned with foreign air carrier permits and not relevant to air carrier certificate revocation. The word ''rule'' is omitted as being synonymous with ''regulation''. The words ''condition, or limitation'' are omitted as surplus.

In subsection (a)(3), the words ''to the provision, or to the order (other than an order issued in accordance with this sentence), rule, regulation, term, condition, or limitation found by the Board to have been violated'' are omitted as surplus.

In subsection (a)(4), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title. The

words ''altered'' and ''the simplified procedures of'' are omitted as surplus.

In subsection (b), the words ''to the extent of such service'' are omitted as surplus. The word ''provided'' is substituted for ''performed'' for consistency in the revised title.

In subsection (c)(1), the word ''place'' is substituted for ''point'' for consistency in the revised title. In clause (A), the cross-reference is to section 41734(a) of the revised title for clarity because 49 App.:1371(j) is obsolete. The comparable provision is 49 App.:1389(b)(2), restated as section 41734(a). The words ''provided by that carrier'' are omitted as surplus. In clause (B), the word ''immediately'' is added for clarity.

In subsection (d)(2), the words ''alter'' and ''the procedures prescribed in'' are omitted as surplus.

In subsections (e) and (f)(2), the word ''amend'' is added for consistency.

In subsection (e), before clause (1), the words ''The requirement that each applicant for a certificate or any other authority . . . shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board'' are omitted as surplus. The words ''by order'' are omitted as unnecessary because of 5:ch. 5, subch. II. In clause (1), the word ''provide'' is substituted for ''perform'' for consistency in the revised title. The word ''properly'' is omitted as surplus. The word ''comply'' is substituted for ''conform to'' for consistency in the revised title. The word ''rules'' is omitted as being synonymous with ''regulations''. The word ''requirements'' is omitted as surplus.

In subsection (f), before clause (1), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''on and after August 15, 1985'' are omitted as executed. In clause (1), before subclause (A), the words ''law enforcement and other'' are omitted as surplus. The words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the Code. The words ''an air carrier'' are substituted for ''any carrier'' for clarity. In clause (2), the words ''of public convenience and necessity'' are omitted as surplus. The words ''issued under this chapter'' are added for clarity.

In subsection (g), the word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The word ''alteration'' is omitted as surplus.

PUB. L. 103–429

This amends 49:41110(e) to clarify the restatement of 49 App.:1371(r) (related to certificate) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1124).

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–429 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

''(1) is not fit, willing, and able to continue to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

''(2) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (1) of this subsection.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates

(a) GENERAL REQUIREMENTS.—(1) The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(A) acting on an application for a certificate to provide air transportation under section 41102 of this title; and

(B) amending, modifying, suspending, or transferring any part of that certificate under section 41105 or 41110(a) or (c) of this title.

(2) Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(b) WHEN SIMPLIFIED PROCEDURE USED.—The Secretary may use the simplified procedure to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title, when the Secretary decides the use of the procedure is in the public interest.

(c) CONTENTS.—(1) To the extent the Secretary finds practicable, regulations under this section shall include each standard the Secretary will apply when—

(A) deciding whether to use the simplified procedure; and

(B) making a decision on an action in which the procedure is used.

(2) The regulations may provide that written evidence and argument may be filed under section 41108(b) of this title as a part of a response opposing or supporting the issuance of a certificate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1125.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41111(a)	49 App.:1371(p)(1) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(p); added Oct. 24, 1978, Pub. L. 95–504, §21(a)(1), 92 Stat. 1723.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41111(b)	49 App.:1371(p)(2) (1st sentence).	
	49 App.:1551(b)(1)(E).	
41111(c)	49 App.:1371(p)(1) (last sentence), (2) (last sentence).	
	49 App.:1551(b)(1)(E).	

In this section, the words ''acting on'' and ''act on'' are substituted for ''disposition of'' for consistency.

In subsection (a)(1)(A), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(1)(B), the word ''alteration'' is omitted as surplus.

In subsection (a)(2), the word ''adequate'' is omitted as surplus.

In subsection (b), the words ''to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend,

or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title'' are added for clarity.

In subsection (c)(2), the words ''by such person'' are omitted as surplus. The words ''a response opposing or supporting the issuance of a certificate'' are substituted for ''a protest or memorandum filed with respect to such application'' for consistency.

§ 41112. Liability insurance and financial responsibility

(a) LIABILITY INSURANCE.—The Secretary of Transportation may issue a certificate to a citizen of the United States to provide air transportation as an air carrier under section 41102 of this title only if the citizen complies with regulations and orders of the Secretary governing the filing of an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the certificate. A certificate does not remain in effect unless the carrier complies with this subsection.

(b) FINANCIAL RESPONSIBILITY.—To protect passengers and shippers using an aircraft operated by an air carrier issued a certificate under section 41102 of this title, the Secretary may require the carrier to file a performance bond or equivalent security in the amount and on terms the Secretary prescribes. The bond or security must be sufficient to ensure the carrier adequately will pay the passengers and shippers when the transportation the carrier agrees to provide is not provided. The Secretary shall prescribe the amounts to be paid under this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41112	49 App.:1371(q).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(q); added Oct. 24, 1978, Pub. L. 95–504, § 20(d)(1), 92 Stat. 1722.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), the words ''citizen of the United States'' and ''citizen'' are substituted for ''applicant for such certificate or the air carrier'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title and receive a certificate. The words ''as the case may be'' are omitted as surplus. The words ''to provide air transportation as an air carrier under section 41102 of this title'' are added for clarity. The words ''approved by the Secretary'' are substituted for ''governing the filing and approval . . . in the amount prescribed by the Board'' to eliminate unnecessary words. The words ''The policy or plan must be sufficient to pay'' are substituted for ''which are conditioned to pay . . . amounts'' for clarity. The words ''for which such applicant or such air carrier may become liable for'' are omitted as surplus.

In subsection (b), the word ''passengers'' is substituted for ''travelers'' for consistency in this chapter. The words ''issued . . . under section 41102 of this title'' are added for clarity. The word ''arrangement'' is omitted as surplus. The word ''provide'' is substituted for ''perform'' for consistency in the revised title.

§ 41113. Plans to address needs of families of passengers involved in aircraft accidents

(a) SUBMISSION OF PLANS.—Each air carrier holding a certificate of public convenience and necessity under section 41102 of this title shall submit to the Secretary and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any aircraft accident involving an aircraft of the air carrier and resulting in a major loss of life.

(b) CONTENTS OF PLANS.—A plan to be submitted by an air carrier under subsection (a) shall include, at a minimum, the following:

(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1136(a)(2) of this title or the services of other suitably trained individuals.

(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the air carrier has verified that the passenger was aboard the aircraft (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

(4) An assurance that the air carrier will provide to the director of family support services designated for the accident under section 1136(a)(1) of this title, and to the organization designated for the accident under section 1136(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), and will periodically update the list.

(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the air carrier.

(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the air carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

(7) An assurance that any unclaimed possession of a passenger within the control of the air carrier will be retained by the air carrier for at least 18 months.

(8) An assurance that the family of each passenger will be consulted about construction by the air carrier of any monument to the passengers, including any inscription on the monument.

(9) An assurance that the treatment of the families of nonrevenue passengers (and any other victim of the accident) will be the same as the treatment of the families of revenue passengers.

(10) An assurance that the air carrier will work with any organization designated under section 1136(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

(11) An assurance that the air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) of this title for services provided by the organization.

(12) An assurance that the air carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) An assurance that the air carrier will commit sufficient resources to carry out the plan.

(14) An assurance that, upon request of the family of a passenger, the air carrier will inform the family of whether the passenger's name appeared on a preliminary passenger manifest for the flight involved in the accident.

(15) An assurance that the air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(16) An assurance that the air carrier, in the event that the air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving major loss of life, will consult with the Board and the Department of State on the provision of the assistance.

(17)(A) An assurance that, in the case of an accident that results in significant damage to a manmade structure or other property on the ground that is not government-owned, the air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

(B) At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by air carrier representatives about compensation by the air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

(18) An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier's flight if that city is located in the United States.

(c) CERTIFICATE REQUIREMENT.—The Secretary may not approve an application for a certificate of public convenience and necessity under section 41102 of this title unless the applicant has included as part of such application a plan that meets the requirements of subsection (b).

(d) LIMITATION ON LIABILITY.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in preparing or providing a passenger list, or in providing information concerning a preliminary passenger manifest, pursuant to a plan submitted by the air carrier under subsection (b), unless such liability was caused by conduct of the air carrier which was grossly negligent or which constituted intentional misconduct.

(e) AIRCRAFT ACCIDENT AND PASSENGER DEFINED.—In this section, the terms ''aircraft accident'' and ''passenger'' have the meanings such terms have in section 1136 of this title.

(f) STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.

(Added Pub. L. 104–264, title VII, §703(a), Oct. 9, 1996, 110 Stat. 3267; amended Pub. L. 106–181, title IV, §402(a)(1)–(3), (5)–(c), Apr. 5, 2000, 114 Stat. 129, 130; Pub. L. 108–176, title VIII, §809(a), Dec. 12, 2003, 117 Stat. 2588.)

AMENDMENTS

2003—Subsec. (b)(16). Pub. L. 108–176, §809(a)(1), struck out ''the air carrier'' after ''major loss of life,''.

Subsec. (b)(17), (18). Pub. L. 108–176, §809(a)(2), added pars. (17) and (18).

2000—Subsec. (a). Pub. L. 106–181, §402(a)(5)(A), substituted ''Each air carrier'' for ''Not later than 6 months after the date of the enactment of this section, each air carrier''.

Subsec. (b)(14) to (16). Pub. L. 106–181, §402(a)(1)–(3), added pars. (14) to (16).

Subsec. (c). Pub. L. 106–181, §402(a)(5)(B), substituted ''The Secretary'' for ''After the date that is 6 months after the date of the enactment of this section, the Secretary''.

Subsec. (d). Pub. L. 106–181, §402(b), inserted '', or in providing information concerning a preliminary passenger manifest,'' before ''pursuant to a plan''.

Subsec. (f). Pub. L. 106–181, §402(c), added subsec. (f).

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 2000 AMENDMENT

Amendment by section 402(a)(5)(B) to (c) of Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

Pub. L. 106–181, title IV, §402(a)(4), Apr. 5, 2000, 114 Stat. 130, provided that: ''The amendments made by paragraphs (1), (2), and (3) [amending this section] shall take effect on the 180th day following the date of the enactment of this Act [Apr. 5, 2000]. On or before such 180th day, each air carrier holding a certificate of public convenience and necessity under section 41102 of title 49, United States Code, shall submit to the Secretary [of Transportation] and the Chairman of the National Transportation Safety Board an updated plan under section 41113 of such title that meets the requirements of the amendments made by paragraphs (1), (2), and (3).''

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

UPDATE PLANS

Pub. L. 108–176, title VIII, § 809(c), Dec. 12, 2003, 117 Stat. 2589, provided that: ''Air carriers and foreign air carriers shall update their plans under sections 41113 and 41313 of title 49, United States Code, respectively, to reflect the amendments made by subsections (a) and (b) of this section [amending this section and section 41313 of this title] not later than 90 days after the date of enactment of this Act [Dec. 12, 2003].''

ESTABLISHMENT OF TASK FORCE

Section 704 of Pub. L. 104–264 provided that:

''(a) ESTABLISHMENT.—The Secretary of Transportation, in cooperation with the National Transportation Safety Board, the Federal Emergency Management Agency, the American Red Cross, air carriers, and families which have been involved in aircraft accidents shall establish a task force consisting of representatives of such entities and families, representatives of air carrier employees, and representatives of such other entities as the Secretary considers appropriate.

''(b) GUIDELINES AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

''(1) guidelines to assist air carriers in responding to aircraft accidents;

''(2) recommendations on methods to ensure that attorneys and representatives of media organizations do not intrude on the privacy of families of passengers involved in an aircraft accident;

''(3) recommendations on methods to ensure that the families of passengers involved in an aircraft accident who are not citizens of the United States receive appropriate assistance;

''(4) recommendations on methods to ensure that State mental health licensing laws do not act to prevent out-of-state mental health workers from working at the site of an aircraft accident or other related sites;

''(5) recommendations on the extent to which military experts and facilities can be used to aid in the identification of the remains of passengers involved in an aircraft accident; and

''(6) recommendations on methods to improve the timeliness of the notification provided by air carriers to the families of passengers involved in an aircraft accident, including—

''(A) an analysis of the steps that air carriers would have to take to ensure that an accurate list of passengers on board the aircraft would be available within 1 hour of the accident and an analysis of such steps to ensure that such list would be available within 3 hours of the accident;

''(B) an analysis of the added costs to air carriers and travel agents that would result if air carriers were required to take the steps described in subparagraph (A);

''(C) an analysis of any inconvenience to passengers, including flight delays, that would result if air carriers were required to take the steps described in subparagraph (A); and

''(D) an analysis of the implications for personal privacy that would result if air carriers were required to take the steps described in subparagraph (A).

''(c) REPORT.—Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).''

LIMITATION ON STATUTORY CONSTRUCTION

Section 705 of title VII of Pub. L. 104–264 provided that: ''Nothing in this title [enacting this section and section 1136 of this title, amending section 1155 of this title, and enacting provisions set out as notes under this section and section 40101 of this title] or any amendment made by this title may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.''

CHAPTER 413—FOREIGN AIR TRANSPORTATION

Sec.
41301. Requirement for a permit.
41302. Permits of foreign air carriers.
41303. Transfers of permits.
41304. Effective periods and amendments, modifications, suspensions, and revocations of permits.
41305. Applications for permits.
41306. Simplified procedure to apply for, amend, modify, and suspend permits.
41307. Presidential review of actions about foreign air transportation.
41308. Exemption from the antitrust laws.
41309. Cooperative agreements and requests.
41310. Discriminatory practices.
41311. Gambling restrictions.
41312. Ending or suspending foreign air transportation.
41313. Plans to address needs of families of passengers involved in foreign air carrier accidents.

AMENDMENTS

1997—Pub. L. 105–148, § 1(b), Dec. 16, 1997, 111 Stat. 2683, added item 41313.

1994—Pub. L. 103–429, § 6(51)(B), Oct. 31, 1994, 108 Stat. 4385, added item 41312.

Pub. L. 103–305, title II, § 205(a)(2), Aug. 23, 1994, 108 Stat. 1583, added item 41311.

§ 41301. Requirement for a permit

A foreign air carrier may provide foreign air transportation only if the foreign air carrier holds a permit issued under this chapter authorizing the foreign air transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41301	49 App.:1372(a).	Aug. 23, 1958, Pub. L. 85–726, § 402(a), 72 Stat. 757.

The word ''provide'' is substituted for ''engage in'' for consistency in the revised title. The word ''holds'' is substituted for ''there is in force'' to eliminate unnecessary words.

§ 41302. Permits of foreign air carriers

The Secretary of Transportation may issue a permit to a person (except a citizen of the United States) authorizing the person to provide foreign air transportation as a foreign air carrier if the Secretary finds that—

(1) the person is fit, willing, and able to provide the foreign air transportation to be authorized by the permit and to comply with this part and regulations of the Secretary; and

(2)(A) the person is qualified, and has been designated by the government of its country,

to provide the foreign air transportation under an agreement with the United States Government; or

(B) the foreign air transportation to be provided under the permit will be in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41302	49 App.:1372(b).	Aug. 23, 1958, Pub. L. 85–726, § 402(b), 72 Stat. 758; restated Feb. 15, 1980, Pub. L. 96–192, § 7, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''person (except a citizen of the United States)'' and ''person'' are substituted for ''applicant'' for clarity and consistency because only a person other than a United States citizen may be a ''foreign air carrier'' as defined in section 40102(a) of the revised title. In clauses (1) and (2), the word ''provide'' is substituted for ''perform'' for consistency in the revised title. In clause (1), the word ''properly'' is omitted as surplus. The word ''comply'' is substituted for ''conform'' for consistency in the revised title. The word ''rules'' is omitted as being synonymous with ''regulations''. The word ''requirements'' is omitted as surplus. In clause (2)(A), the words ''government of its country'' are substituted for ''its government'' for consistency in the revised title and with other titles of the United States Code.

§ 41303. Transfers of permits

A permit issued under section 41302 of this title may be transferred only when the Secretary of Transportation approves the transfer because the transfer is in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41303	49 App.:1372(g).	Aug. 23, 1958, Pub. L. 85–726, § 402(g), 72 Stat. 758.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

§ 41304. Effective periods and amendments, modifications, suspensions, and revocations of permits

(a) GENERAL.—The Secretary of Transportation may prescribe the period during which a permit issued under section 41302 of this title is in effect. After notice and an opportunity for a hearing, the Secretary may amend, modify, suspend, or revoke the permit if the Secretary finds that action to be in the public interest.

(b) SUSPENSIONS AND RESTRICTIONS.—Without a hearing, but subject to the approval of the President, the Secretary—

(1) may suspend summarily the permits of foreign air carriers of a foreign country, or amend, modify, or limit the operations of the foreign air carriers under the permits, when the Secretary finds—

(A) the action is in the public interest; and

(B) the government, an aeronautical authority, or a foreign air carrier of the foreign country, over the objection of the United States Government, has—

(i) limited or denied the operating rights of an air carrier; or

(ii) engaged in unfair, discriminatory, or restrictive practices that have a substantial adverse competitive impact on an air carrier related to air transportation to, from, through, or over the territory of the foreign country; and

(2) to make this subsection effective, may restrict operations between the United States and the foreign country by a foreign air carrier of a third country.

(c) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the Government, shall reexamine immediately the fitness of a foreign air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the permit of the carrier issued under this chapter.

(d) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a permit under subsection (a) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41304(a)	49 App.:1372(e) (related to duration of permits).	Aug. 23, 1958, Pub. L. 85–726, § 402(e) (related to duration of permits), 72 Stat. 758.
	49 App.:1372(f)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 402(f)(1), 72 Stat. 758; Feb. 15, 1980, Pub. L. 96–192, § 9, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41304(b)	49 App.:1372(f)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 402(f)(2); added Feb. 15, 1980, Pub. L. 96–192, § 9, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	
41304(c)	49 App.:1371a (related to permit).	Aug. 15, 1985, Pub. L. 99–88, § 100 (1st complete par. related to permit on p. 352), 99 Stat. 352.
41304(d)	49 App.:1372(f)(1) (last sentence).	
	49 App.:1551(b)(1)(E).	

In subsection (a), the words ''altered'' and ''cancelled'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''alter'' and ''condition'' are omitted as surplus. In clause (B)(i) and (ii), the words ''United States'' before ''air carriers'' and ''carriers'' are omitted as surplus and for consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title. In clause (B)(i), the word ''impaired'' is omitted as surplus.

In subsection (c), before clause (1), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''on and after August 15, 1985'' are omitted as executed. In clause (1), before subclause (A), the words ''law enforcement and other'' are omitted as surplus. The words ''departments, agencies, and instrumentalities of the Government'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the Code. The words ''a foreign air carrier'' are substituted for ''any carrier'' for clarity. In clause (2), the words ''of public convenience and necessity'' are omitted as surplus. The word ''amend'' is added for consistency. The words ''issued under this chapter'' are added for clarity.

In subsection (d), the word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The words ''alteration'' and ''cancellation'' are omitted as surplus.

§ 41305. Applications for permits

(a) FORM, CONTENTS, NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) A person must apply in writing to the Secretary of Transportation to be issued a permit under section 41302 of this title. The Secretary shall prescribe regulations to require that the application be—

(A) verified;

(B) in a certain form and contain certain information;

(C) served on interested persons; and

(D) accompanied by proof of service on those persons.

(2) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the permit. The Secretary shall act on an application as expeditiously as possible.

(b) TERMS.—The Secretary may impose terms for providing foreign air transportation under the permit that the Secretary finds may be required in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41305(a)(1) ..	49 App.:1372(c).	Aug. 23, 1958, Pub. L. 85–726, § 402(c), (e) (related to terms, conditions, or limitations of permits), 72 Stat. 758.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41305(a)(2) ..	49 App.:1372(d).	Aug. 23, 1958, Pub. L. 85–726, § 402(d), 72 Stat. 758; Feb. 15, 1980, Pub. L. 96–192, § 8, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	
41305(b)	49 App.:1372(e) (related to terms, conditions, or limitations of permits).	
	49 App.:1551(b)(1)(E).	

In subsection (a)(1), before clause (A), the words ''A person must apply . . . to the Secretary of Transportation to be issued a permit under section 41302 of this title'' are added for clarity. Clause (C) is added for clarity.

In subsection (a)(2), the words ''give due notice thereof to the public by'' are omitted as surplus. The word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The word ''expeditiously'' is substituted for ''speedily'' for consistency in this chapter.

In subsection (b), the words ''reasonable'' and ''conditions, or limitations'' are omitted as surplus. The words ''for providing foreign air transportation'' are added for clarity.

§ 41306. Simplified procedure to apply for, amend, modify, and suspend permits

(a) REGULATIONS.—The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(1) acting on an application for a permit to provide foreign air transportation under section 41302 of this title; and

(2) amending, modifying, or suspending any part of that permit under section 41304(a) or (b) of this title.

(b) NOTICE AND OPPORTUNITY TO RESPOND.—Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41306(a)	49 App.:1372(h) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 402(h); added Oct. 24, 1978, Pub. L. 95–504, § 21(b)(1), 92 Stat. 1723.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41306(b)	49 App.:1372(h) (last sentence).	

In subsection (a)(1), the words ''acting on'' are substituted for ''disposition of'' for consistency. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(2), the word ''alteration'' is omitted as surplus. The word ''transfer'' is omitted because 49 App.:1372(f) does not cover transfer of a permit.

In subsection (b), the word ''adequate'' is omitted as surplus.

§ 41307. Presidential review of actions about foreign air transportation

The Secretary of Transportation shall submit to the President for review each decision of the Secretary to issue, deny, amend, modify, suspend, revoke, or transfer a certificate issued under section 41102 of this title authorizing an air carrier, or a permit issued under section 41302 of this title authorizing a foreign air carrier, to provide foreign air transportation. The President may disapprove the decision of the Secretary only if the reason for disapproval is based on foreign relations or national defense considerations that are under the jurisdiction of the President. The President may not disapprove a decision of the Secretary if the reason is economic or related to carrier selection. A decision of the Secretary—

(1) is void if the President disapproves the decision and publishes the reasons (to the extent allowed by national security) for dis-

approval not later than 60 days after it is submitted to the President; or

(2)(A) takes effect as a decision of the Secretary if the President does not disapprove the decision not later than 60 days after the decision is submitted to the President; and

(B) when effective, may be reviewed judicially under section 46110 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41307	49 App.:1461(a).	Aug. 23, 1958, Pub. L. 85–726, §801(a), 72 Stat. 782; Mar. 22, 1972, Pub. L. 92–259, §2, 86 Stat. 96; restated Oct. 24, 1978, Pub. L. 95–504, §34, 92 Stat. 1740.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the word ''cancellation'' is omitted as surplus. The word ''modify'' is added for consistency. The words ''and the terms, conditions, and limitations contained in'' are omitted as surplus. The words ''issued under section 41102 of this title'' are added for clarity. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title. In clause (1), the words ''null and'' are omitted as surplus. The word ''publishes'' is substituted for ''issued in a public document'' to eliminate unnecessary words. In clause (2)(A), the words ''not the President'' are omitted as surplus.

EXECUTIVE ORDER NO. 11920

Ex. Ord. No. 11920, June 10, 1976, 41 F.R. 23665, which provided for establishment of Executive branch procedures to facilitate review of submitted decisions, was revoked by Ex. Ord. No. 12547, Feb. 6, 1986, 51 F.R. 5029.

EXECUTIVE ORDER NO. 12547

Ex. Ord. No. 12547, Feb. 6, 1986, 51 F.R. 5029, which provided for establishment of procedures to facilitate Presidential review of international aviation decisions submitted by Department of Transportation, was revoked by Ex. Ord. No. 12597, May 13, 1987, 52 F.R. 18335, set out below.

EX. ORD. NO. 12597. ESTABLISHING PROCEDURES FOR FACILITATING PRESIDENTIAL REVIEW OF INTERNATIONAL AVIATION DECISIONS BY THE DEPARTMENT OF TRANSPORTATION

Ex. Ord. No. 12597, May 13, 1987, 52 F.R. 18335, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 801 of the Federal Aviation Act, as amended (49 U.S.C. app. §1461) [see 49 U.S.C. 41307, 41509(f)], and in order to provide presidential guidance to department and agency heads and facilitate presidential review of decisions by the Department of Transportation pursuant to the Federal Aviation Act [see 49 U.S.C. 40101 et seq.], it is hereby ordered as follows:

SECTION 1. Executive Order No. 12547 of February 6, 1986, is revoked.

SEC. 2. The Secretary of Transportation is designated and empowered to receive on behalf of the President any decision of the Department of Transportation (hereinafter referred to as the ''DOT'') subject to Section 801 of the Federal Aviation Act, as amended. The Secretary of Transportation is further designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under Section 801 of the Federal Aviation Act, as amended, to review and determine not to disapprove any such decision that is not the subject of any written recommendation for disapproval or for a statement of reasons submitted to the Department of Transportation in accordance with section 5(b) of this Order.

SEC. 3. (a) Except as otherwise provided in this section, decisions of the DOT subject to Section 801 of the Federal Aviation Act, as amended, may be made available by the DOT for public inspection and copying following transmission to Executive departments and agencies pursuant to section 3(c) of this Order.

(b) In the interests of national security, and in order to allow for consideration of appropriate action under Executive Order No. 12356 [50 U.S.C. 435 note], decisions of the DOT transmitted to Executive departments and agencies pursuant to section 3(c) of this Order shall be withheld from public disclosure for a period not to exceed 5 days after said transmission.

(c) At the same time that decisions of the DOT are received by the Secretary of Transportation pursuant to section 2 of this Order, the DOT shall transmit copies thereof to the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Attorney General, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and any other Executive department or agency that the DOT deems appropriate.

(d) The Secretary of State and the Secretary of Defense, or their designees, shall review the decisions of the DOT transmitted pursuant to section 3(c) of this Order and shall promptly advise the Assistant to the President for National Security Affairs or his designee whether action pursuant to Executive Order No. 12356 is deemed appropriate. If, after considering these recommendations, the Assistant to the President for National Security Affairs determines that classification under Executive Order No. 12356 is appropriate, he shall take such action and immediately so inform the DOT. Action pursuant to this subsection shall be completed by the persons designated herein within 5 days of the transmission of the decision.

(e) On and after the 6th day following transmission of a DOT decision pursuant to section 3(c) of this Order, or upon earlier notification by the Assistant to the President for National Security Affairs or his designee, the DOT is authorized to disclose all unclassified portions of the text of such decision. Nothing in this section is intended to affect the ability to withhold material under any Executive order or statute other than Section 801.

SEC. 4. (a) Departments and agencies outside of the Executive Office of the President shall raise only matters of national defense or foreign relations in the course of the presidential review established by this Order. All other matters, including those related to regulatory policy, shall be presented to the DOT in accordance with the procedures of the DOT.

(b) Departments and agencies outside of the Executive Office of the President that identify matters of national defense or foreign relations while a decision is pending before the DOT shall, except as confidentiality is required for reasons of defense or foreign policy, make those matters known to the DOT in the course of its proceedings.

SEC. 5. (a) The DOT shall receive the recommendations, addressed to the President, of the departments and agencies referred to in section 3(c) of this Order.

(b) Departments or agencies outside of the Executive Office of the President making recommendations on matters of national defense or foreign relations with respect to any decision received by the Secretary of Transportation under section 2 of this Order shall submit their recommendations in writing to the DOT: (1) within 4 days of the DOT's issuance of a decision subject to a 10-day statutory review period under Section 801(b) [see 49 U.S.C. 41509(f)]; and (2) within 21 days of the DOT's issuance of a decision subject to a 60-day statutory review period under Section 801(a) [see 49 U.S.C. 41307]; or (3) in exceptional cases, within the period specified by the DOT in its letter of transmittal.

(c) The DOT shall, as soon as practical after the deadlines specified in section 5(b) of this Order: (1) if no rec-

ommendations for disapproval or for a statement of reasons are received from the departments and agencies specified in section 3(c) of this Order, issue its decision to become effective according to its terms; or (2) if recommendations for disapproval or for a statement of reasons are received, transmit them to the Assistant to the President for National Security Affairs, who, upon review, shall transmit a memorandum to the President with a recommendation as to whether or not the President should disapprove the proposed decision.

SEC. 6. (a) In advising the President with respect to his review of a decision pursuant to Section 801, departments and agencies outside of the Executive Office of the President shall identify with particularity the defense or foreign policy implications of the DOT decision that are deemed appropriate for consideration.

(b) If any department or agency that made recommendations to the President pursuant to Section 801 believes that, if the President decides not to disapprove a decision, the letter so advising the DOT should include a statement that the decision not to disapprove was based on national defense or foreign relations reasons, it should so indicate separately and explain why.

SEC. 7. Individuals within the Executive Office of the President shall follow a policy of: (a) refusing to discuss matters relating to the disposition of a case subject to the review of the President under Section 801 with any interested private party, or an attorney or agent for any such party, prior to the decision by the President or his designee; and (b) referring any written communication from an interested private party, or an attorney or agent for any such party, to the appropriate department or agency outside of the Executive Office of the President. Exceptions to this policy may be made only when the head of an appropriate department or agency outside of the Executive Office of the President personally finds, on a nondelegable basis, that direct written or oral communication between a private party and a person within the Executive Office of the President is needed for reasons of defense or foreign policy.

SEC. 8. Departments and agencies outside of the Executive Office of the President that regularly make recommendations in connection with the presidential review pursuant to Section 801 shall, consistent with applicable law, including the provisions of Chapter 5 of Title 5 of the United States Code:

(a) establish public dockets for all written communications (other than those requiring confidential treatment for defense or foreign policy reasons) between their officers and employees and private parties in connection with the preparation of such recommendations; and

(b) prescribe such other procedures governing oral and written communications as they deem appropriate.

SEC. 9. This Order is intended solely for the internal guidance of the departments and agencies in order to facilitate the presidential review process. This Order does not confer rights on any private parties.

SEC. 10. None of the time deadlines specified in this Order shall be construed as a limitation on expedited presidential review of any decision under Section 801.

SEC. 11. The provisions of this Order shall become effective upon publication in the Federal Register and shall govern the review of any proposed decisions of the DOT that have not become final prior to that date under Executive Order No. 12547.

SEC. 12. References in any Executive order to any provision in Executive Order No. 12547 shall be deemed to refer to the corresponding provision in this Order.

RONALD REAGAN.

§ 41308. Exemption from the antitrust laws

(a) DEFINITION.—In this section, ''antitrust laws'' has the same meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(b) EXEMPTION AUTHORIZED.—When the Secretary of Transportation decides it is required by the public interest, the Secretary, as part of an order under section 41309 or 42111 of this title, may exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(c) EXEMPTION REQUIRED.—In an order under section 41309 of this title approving an agreement, request, modification, or cancellation, the Secretary, on the basis of the findings required under section 41309(b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41308	49 App.:1384.	Aug. 23, 1958, Pub. L. 85–726, § 414, 72 Stat. 770; restated Oct. 24, 1978, Pub. L. 95–504, § 30(a), 92 Stat. 1731; Feb. 15, 1980, Pub. L. 96–192, § 27, 94 Stat. 47.
	49 App.:1551(a)(6) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(6) (related to § 414); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704.
	49 App.:1551(b)(1)(C) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(C) (related to § 414); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, § 4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, § 3(a), 98 Stat. 1703.

Subsection (a) is substituted for ''the 'anti-trust laws' set forth in subsection (a) of section 12 of title 15'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), reference to 49 App.:1378 and 1379 is omitted as obsolete.

§ 41309. Cooperative agreements and requests

(a) FILING.—An air carrier or foreign air carrier may file with the Secretary of Transportation a true copy of or, if oral, a true and complete memorandum of, an agreement (except an agreement related to interstate air transportation), or a request for authority to discuss cooperative arrangements (except arrangements related to interstate air transportation), and any modification or cancellation of an agreement, between the air carrier or foreign air carrier and another air carrier, a foreign carrier, or another carrier.

(b) APPROVAL.—The Secretary of Transportation shall approve an agreement, request, modification, or cancellation referred to in subsection (a) of this section when the Secretary finds it is not adverse to the public interest and is not in violation of this part. However, the Secretary shall disapprove—

(1) or, after periodic review, end approval of, an agreement, request, modification, or cancellation, that substantially reduces or eliminates competition unless the Secretary finds that—

(A) the agreement, request, modification, or cancellation is necessary to meet a serious transportation need or to achieve important public benefits (including international comity and foreign policy considerations); and

(B) the transportation need cannot be met or those benefits cannot be achieved by reasonably available alternatives that are materially less anticompetitive; or

(2) an agreement that—

(A) is between an air carrier not directly operating aircraft in foreign air transportation and a carrier subject to subtitle IV of this title; and

(B) governs the compensation the carrier may receive for the transportation.

(c) NOTICE AND OPPORTUNITY TO RESPOND OR FOR HEARING.—(1) When an agreement, request, modification, or cancellation is filed, the Secretary of Transportation shall give the Attorney General and the Secretary of State written notice of, and an opportunity to submit written comments about, the filing. On the initiative of the Secretary of Transportation or on request of the Attorney General or Secretary of State, the Secretary of Transportation may conduct a hearing to decide whether an agreement, request, modification, or cancellation is consistent with this part whether or not it was approved previously.

(2) In a proceeding before the Secretary of Transportation applying standards under subsection (b)(1) of this section, a party opposing an agreement, request, modification, or cancellation has the burden of proving that it substantially reduces or eliminates competition and that less anticompetitive alternatives are available. The party defending the agreement, request, modification, or cancellation has the burden of proving the transportation need or public benefits.

(3) The Secretary of Transportation shall include the findings required by subsection (b)(1) of this section in an order of the Secretary approving or disapproving an agreement, request, modification, or cancellation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1129; Pub. L. 104–88, title III, § 308(*l*), Dec. 29, 1995, 109 Stat. 948; Pub. L. 104–287, § 5(71), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41309(a)	49 App.:1382(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 412(a), (b); added Oct. 24, 1978, Pub. L. 95–504, § 28(c), 92 Stat. 1729; Feb. 15, 1980, Pub. L. 96–192, § 11, 94 Stat. 39.
	49 App.:1551(a)(6) (related to 49 App.:1382).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(6) (related to § 412); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704.
	49 App.:1551(b)(1)(C) (related to 49 App.:1382(a)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(C) (related to § 412(a), (b)); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, § 4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, § 3(a), 98 Stat. 1703.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41309(b)	49 App.:1382(a)(2)(A).	
	49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(a)).	
41309(c)(1) ..	49 App.:1382(b).	
	49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(b)).	
41309(c)(2) ..	49 App.:1382(a)(2)(B).	
41309(c)(3) ..	49 App.:1382(a)(2)(C).	
	49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(a)).	

In this section, the word ''contract'' is omitted as being included in ''agreement''.

In subsection (a), the words ''(whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise)'' are omitted as surplus. The words ''(except an agreement related to interstate air transportation)'' and ''(except arrangements related to interstate air transportation)'' are added because of 49 App.:1551(a)(6) (related to 49 App.:1382). The word ''working'' is omitted as surplus. The words ''in force on October 24, 1978, or thereafter entered into'' are omitted as executed. The words ''and any modification or cancellation of an agreement'' are substituted for ''or any modification or cancellation thereof'' for clarity and consistency.

In subsection (b), before clause (1), the words ''The Board shall by order disapprove any contract, agreement, or request . . . that it finds to be adverse to the public interest or in violation of this chapter'' are omitted as surplus because of the language restated in this subsection that sets out the requirements for approval by the Secretary of Transportation before the antitrust exemption is effective. The words ''whether or not previously approved by it'' are omitted as surplus because of the language in clause (1) requiring periodic review and continuing approval. The words ''by order'' are omitted as unnecessary because of 5:ch. 5, subch. II. The text of 49 App.:1382(a)(2)(A)(iii) is omitted as obsolete because of 49 App.:1551(a)(6) (related to 49 App.:1382).

In subsection (c)(1), the words ''in accordance with regulations which it prescribes'' are omitted as surplus. The words ''in accordance with regulations prescribed by the Board'' are omitted as surplus.

PUB. L. 104–287

This amends 49:41309(b)(2)(B) for consistency in the subsection.

AMENDMENTS

1996—Subsec. (b)(2)(B). Pub. L. 104–287 substituted ''carrier'' for ''common carrier''.

1995—Subsec. (b)(2)(A). Pub. L. 104–88 substituted ''a carrier'' for ''a common carrier''.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of this title.

AIR TRANSPORTATION ARRANGEMENTS IN CERTAIN STATES

Pub. L. 107–71, title I, § 116, Nov. 19, 2001, 115 Stat. 624, which related to air transportation arrangements for flights that both originate and terminate at points within the same State, was repealed by Pub. L. 107–273, div. C, title IV, § 14102(g), Nov. 2, 2002, 116 Stat. 1922.

§ 41310. Discriminatory practices

(a) PROHIBITION.—An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.

(b) REVIEW AND NEGOTIATION OF DISCRIMINATORY FOREIGN CHARGES.—(1) The Secretary of Transportation shall survey charges imposed on an air carrier by the government of a foreign country or another foreign entity for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation decides that a charge is discriminatory, the Secretary promptly shall report the decision to the Secretary of State. The Secretaries of State and Transportation promptly shall begin negotiations with the appropriate government to end the discrimination. If the discrimination is not ended in a reasonable time through negotiation, the Secretary of Transportation shall establish a compensating charge equal to the discriminatory charge. With the approval of the Secretary of State, the Secretary of the Treasury shall impose the compensating charge on a foreign air carrier of that country as a condition to accepting the general declaration of the aircraft of the foreign air carrier when it lands or takes off.

(2) The Secretary of the Treasury shall maintain an account to credit money collected under paragraph (1) of this subsection. An air carrier shall be paid from the account an amount certified by the Secretary of Transportation to compensate the air carrier for the discriminatory charge paid to the government.

(c) ACTIONS AGAINST DISCRIMINATORY ACTIVITY.—(1) The Secretary of Transportation may take actions the Secretary considers are in the public interest to eliminate an activity of a government of a foreign country or another foreign entity, including a foreign air carrier, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity—

(A) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against an air carrier; or

(B) imposes an unjustifiable or unreasonable restriction on access of an air carrier to a foreign market.

(2) The Secretary of Transportation may deny, amend, modify, suspend, revoke, or transfer under paragraph (1) of this subsection a foreign air carrier permit or tariff under section 41302, 41303, 41304(a), 41504(c), 41507, or 41509 of this title.

(d) FILING OF, AND ACTING ON, COMPLAINTS.—(1) An air carrier, computer reservations system firm, or a department, agency, or instrumentality of the United States Government may file a complaint under subsection (c) or (g) of this section with the Secretary of Transportation. The Secretary shall approve, deny, or dismiss the complaint, set the complaint for a hearing or investigation, or begin another proceeding proposing remedial action not later than 60 days after receiving the complaint. The Secretary may extend the period for acting for additional periods totaling not more than 30 days if the Secretary decides that with additional time it is likely that a complaint can be resolved satisfactorily through negotiations with the government of the foreign country or foreign entity. The Secretary must act not later than 90 days after receiving the complaint. However, the Secretary may extend this 90-day period for not more than an additional 90 days if, on the last day of the initial 90-day period, the Secretary finds that—

(A) negotiations with the government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

(B) an air carrier or computer reservations system firm has not been subjected to economic injury by the government or entity as a result of filing the complaint; and

(C) the public interest requires additional time before the Secretary acts on the complaint.

(2) In carrying out paragraph (1) of this subsection and subsection (c) of this section, the Secretary of Transportation shall—

(A) solicit the views of the Secretaries of Commerce and State and the United States Trade Representative;

(B) give an affected air carrier or foreign air carrier reasonable notice and an opportunity to submit written evidence and arguments within the time limits of this subsection; and

(C) submit to the President under section 41307 or 41509(f) of this title actions proposed by the Secretary of Transportation.

(e) REVIEW.—(1) The Secretaries of State, the Treasury, and Transportation and the heads of other departments, agencies, and instrumentalities of the Government shall keep under review, to the extent of each of their jurisdictions, each form of discrimination or unfair competitive practice to which an air carrier is subject when providing foreign air transportation or a computer reservations system firm is subject when providing services with respect to airline service. Each Secretary and head shall—

(A) take appropriate action to eliminate any discrimination or unfair competitive practice found to exist; and

(B) request Congress to enact legislation when the authority to eliminate the discrimination or unfair practice is inadequate.

(2) The Secretary of Transportation shall report to Congress annually on each action taken under paragraph (1) of this subsection and on the continuing program to eliminate discrimination and unfair competitive practices. The Secretaries of State and the Treasury each shall give the Secretary of Transportation information necessary to prepare the report.

(f) REPORTS.—Not later than 30 days after acting on a complaint under this section, the Secretary of Transportation shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on action taken under this section on the complaint.

(g) ACTIONS AGAINST DISCRIMINATORY ACTIVITY BY FOREIGN CRS SYSTEMS.—The Secretary of Transportation may take such actions as the Secretary considers are in the public interest to eliminate an activity of a foreign air carrier that owns or markets a computer reservations system, or of a computer reservations system

firm whose principal offices are located outside the United States, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity, with respect to airline service—

(1) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against a computer reservations system firm whose principal offices are located inside the United States; or

(2) imposes an unjustifiable or unreasonable restriction on access of such a computer reservations system to a foreign market.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1130; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 106–181, title VII, § 741, Apr. 5, 2000, 114 Stat. 174.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41310(a)	49 App.:1374(b).	Aug. 23, 1958, Pub. L. 85–726, § 404(b), 72 Stat. 760.
	49 App.:1551(a)(4)(C) (related to 49 App.:1374(b)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(C) (related to § 404(b)); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1703.
41310(b)	49 App.:1159a.	June 16, 1948, ch. 473, 62 Stat. 450, § 11; added Jan. 3, 1975, Pub. L. 93–623, § 3, 88 Stat. 2103; Oct. 4, 1984, Pub. L. 98–443, § 9(c), 98 Stat. 1706.
41310(c)	49 App.:1159b(b)(1).	Jan. 3, 1975, Pub. L. 93–623, 88 Stat. 2102, § 2(b)(1), (2), (4); added Feb. 15, 1980, Pub. L. 96–192, § 23, 94 Stat. 45; Oct. 4, 1984, Pub. L. 98–443, § 9(d)(2), (3), 98 Stat. 1707; Aug. 23, 1988, Pub. L. 100–418, §§ 10011, 10012(1), (2), 102 Stat. 1573.
41310(d)(1) ..	49 App.:1159b(b)(2), (4).	
41310(d)(2) ..	49 App.:1159b(b)(3).	Jan. 3, 1975, Pub. L. 93–623, 88 Stat. 2102, § 2(b)(3), (e); added Aug. 23, 1988, Pub. L. 100–418, §§ 10012(3), 10013, 102 Stat. 1573.
41310(e)(1) ..	49 App.:1159b(a).	Jan. 3, 1975, Pub. L. 93–623, § 2(a), 88 Stat. 2102; Oct. 4, 1984, Pub. L. 98–443, § 9(d)(1), 98 Stat. 1706.
	49 App.:1159b(c).	Jan. 3, 1975, Pub. L. 93–623, § 2(c), 88 Stat. 2103; Feb. 15, 1980, Pub. L. 96–192, § 23, 94 Stat. 45.
41310(e)(2) ..	49 App.:1159b(d).	Jan. 3, 1975, Pub. L. 93–623, § 2(d), 88 Stat. 2103; Feb. 15, 1980, Pub. L. 96–192, § 23, 94 Stat. 45; Oct. 4, 1984, Pub. L. 98–443, § 9(d)(2), (4), 98 Stat. 1707.
41310(f)	49 App.:1159b(e).	

In subsection (a), the words ''may not subject . . . to unreasonable discrimination'' are substituted for ''No . . . shall make, give, or cause any undue or unreasonable preference or advantage . . . in any respect whatsoever or subject . . . to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever'' to eliminate unnecessary words. The words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(C) provides that 49 App.:1374 no longer applies to interstate or overseas air transportation except insofar as 49 App.:1374 requires air carriers to provide safe and adequate service.

In subsection (b)(1), the words ''at any time'', ''unreasonably exceed comparable charges for furnishing such airport property or airway property in the United States or are otherwise'' and ''reduce such charges or'' are omitted as surplus. The words ''the Secretary of State shall promptly report such instances to'' are omitted as surplus because the Secretary of Transportation is involved in the negotiations and aware of the failure to end the discrimination. The words ''excessive or'' are omitted as surplus. The words ''or carriers'' are omitted because of 1:1.

In subsection (b)(2), the words ''in accordance with such regulations as he shall adopt'' are omitted as surplus because of 49:322(a). The words ''by them'' are omitted as surplus.

In subsections (c)–(e), the words ''United States'' before ''air carriers'' and ''air carrier'' are omitted as surplus and for consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title and because 49 App.:1301 applies to this section.

In subsections (c)(1) and (d)(1), before each clause (A), the words ''foreign entity'' and ''entity'' are substituted for ''instrumentality'' for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), the words ''alteration'', ''cancellation'', ''limitation'', and ''pursuant to the powers of the Secretary'' are omitted as surplus.

In subsection (d)(1), before clause (A), the words ''department, agency, or instrumentality of the United States Government'' are substituted for ''agency of the Government of the United States'' for consistency in the revised title and with other titles of the Code. The words ''additional periods totaling not more than 30 days'' are substituted for ''an additional period or periods of up to 30 days each'' for clarity because the amendment made by section 10111 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418, 102 Stat. 1573) changed the additional period within which the Secretary had to act to only 30 days. The word ''initial'' is added for clarity.

In subsection (d)(2)(A), the words ''the Secretaries of Commerce and State and the United States Trade Representative'' are substituted for ''the Department of State, the Department of Commerce, and the Office of the United States Trade Representative'' because of 15:1501, 22:2651, and 19:2171, respectively.

In subsection (d)(2)(B), the words ''as is consistent with acting on the complaint'' are omitted as surplus.

In subsection (e)(1), before clause (A), the text of 49 App.:1159b(a) (1st, 2d sentences) is omitted as executed. The words ''The Secretaries of State, the Treasury, and Transportation'' are substituted for ''The Department of State, the Department of the Treasury, the Department of Transportation'' because of 22:2651, 31:301(b), and 49:102(b), respectively. The words ''the heads of'' and ''instrumentalities of the Government'' are added for consistency in the revised title and with other titles of the Code. The word ''jurisdictions'' is substituted for ''respective functions'' for clarity and consistency. In clause (A), the words ''within its jurisdiction . . . such forms of'' are omitted as surplus. Clause (B) is substituted for 49 App.:1159b(c) to eliminate unnecessary words.

In subsection (e)(2), the words ''faced by United States carriers in foreign air transportation'', ''as may be'', and ''required by this subsection'' are omitted as surplus.

AMENDMENTS

2000—Subsec. (d)(1). Pub. L. 106–181, § 741(b)(1)(A), (B), in first sentence of introductory provisions, substituted ''air carrier, computer reservations system firm,'' for ''air carrier'' and ''subsection (c) or (g)'' for ''subsection (c)''.

Subsec. (d)(1)(B). Pub. L. 106–181, § 741(b)(1)(C), substituted ''air carrier or computer reservations system firm'' for ''air carrier''.

Subsec. (e)(1). Pub. L. 106–181, § 741(b)(2), inserted ''or a computer reservations system firm is subject when providing services with respect to airline service'' before period at end of first sentence.

Subsec. (g). Pub. L. 106–181, § 741(a), added subsec. (g).

1996—Subsec. (f). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (e)(2) of this section relating to the requirement that the Secretary of Transportation report annually to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 21st item on page 132 of House Document No. 103–7.

§ 41311. Gambling restrictions

(a) IN GENERAL.—An air carrier or foreign air carrier may not install, transport, or operate, or permit the use of, any gambling device on board an aircraft in foreign air transportation.

(b) DEFINITION.—In this section, the term ''gambling device'' means any machine or mechanical device (including gambling applications on electronic interactive video systems installed on board aircraft for passenger use)—

(1) which when operated may deliver, as the result of the application of an element of chance, any money or property; or

(2) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property.

(Added Pub. L. 103–305, title II, § 205(a)(1), Aug. 23, 1994, 108 Stat. 1583.)

STUDY OF GAMBLING ON COMMERCIAL AIRCRAFT

Section 205(b) of Pub. L. 103–305 provided that: ''Not later than 1 year after the date of the enactment of this Act [Aug. 23, 1994], the Secretary shall complete a study of—

''(1) the aviation safety effects of gambling applications on electronic interactive video systems installed on board aircraft for passenger use, including an evaluation of the effect of such systems on the navigational and other electronic equipment of the aircraft, on the passengers and crew of the aircraft, and on issues relating to the method of payment;

''(2) the competitive implications of permitting foreign air carriers only, but not United States air carriers, to install, transport, and operate gambling applications on electronic interactive video systems on board aircraft in the foreign commerce of the United States on flights over international waters, or in fifth freedom city-pair markets; and

''(3) whether gambling should be allowed on international flights, including proposed legislation to effectuate any recommended changes in existing law.

The Secretary shall, within 5 days after the completion of the study, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives on the results of the study.''

§ 41312. Ending or suspending foreign air transportation

(a) GENERAL.—An air carrier holding a certificate issued under section 41102 of this title to provide foreign air transportation—

(1) may end or suspend the transportation to a place under the certificate only when the carrier gives at least 90 days notice of its intention to end or suspend the transportation to the Secretary of Transportation, any community affected by that decision, and the State authority of the State in which a community is located; and

(2) if it is the only air carrier holding a certificate to provide non-stop or single-plane foreign air transportation between 2 places, may end or suspend the transportation between those places only when the carrier gives at least 60 days notice of its intention to end or suspend the transportation to the Secretary and each community directly affected by that decision.

(b) TEMPORARY SUSPENSION.—The Secretary may authorize the temporary suspension of foreign air transportation under subsection (a) of this section when the Secretary finds the suspension is in the public interest.

(Added Pub. L. 103–429, § 6(51)(A), Oct. 31, 1994, 108 Stat. 4384; amended Pub. L. 104–287, § 5(72), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41312(a)	49 App.:1371(j)(1) (1st sentence), (2).	Aug. 23, 1958, Pub. L. 85–726, § 401(j), 72 Stat. 756, as restated Oct. 24, 1978, Pub. L. 95–504, § 19(a), 92 Stat. 1720.
	49 App.:1551(a)(1)(D).	Aug. 23, 1958, Pub. L. 85–726, § 1601(a)(1)(D), as added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, § 1601(b)(1)(E), as added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41312(b)	49 App.:1371(j)(1) (last sentence).	
	49 App.:1551(a)(1)(D), (b)(1)(E).	

In the section, the text of 49 App.:1371(j) (related to interstate and overseas transportation of persons) is omitted because of 49 App.:1551(a)(1)(D). The text of 49 App.:1371(j) (related to other interstate and overseas air transportation and the domestic air transportation of mail) is omitted because a certificate of public convenience and necessity is no longer required. See H.R. Rept. 98–793, 98th Cong., 2d Sess., p. 10 (1984). The text of 49 App.:1371(j) (related to essential air transportation) is omitted as superseded by 49 App.:1389, restated as subchapter II of chapter 417 of title 49.

In subsection (a)(1) and (2), the word ''place'' is substituted for ''point'' for consistency in the revised title. The words ''by that decision'' are added for clarity.

In subsection (a)(1), the words ''which it is providing'' are omitted as surplus. The word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the words ''between those places'' are substituted for ''being provided by such air carrier under such certificate'' to eliminate unnecessary words.

In subsection (b), the words ''by regulation or otherwise'' are omitted as surplus. The words ''when the Secretary finds the suspension is in'' are substituted for ''as may be'' for clarity and consistency.

PUB. L. 104–287

This amends 49:41312(a)(1) to conform to the style of title 49.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–287 substituted ''Secretary of Transportation'' for ''Secretary''.

EFFECTIVE DATE

Section effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as an Effective Date of 1994 Amendment note under section 321 of this title.

§ 41313. Plans to address needs of families of passengers involved in foreign air carrier accidents

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRCRAFT ACCIDENT.—The term ''aircraft accident'' means any aviation disaster, regardless of its cause or suspected cause, that occurs within the United States; and

(2) PASSENGER.—The term ''passenger'' has the meaning given such term by section 1136.

(b) SUBMISSION OF PLANS.—A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a major loss of life.

(c) CONTENTS OF PLANS.—To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:

(1) TELEPHONE NUMBER.—A plan for publicizing a reliable, toll-free telephone number and staff to take calls to such number from families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.

(2) NOTIFICATION OF FAMILIES.—A process for notifying, in person to the extent practicable, the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life before providing any public notice of the names of such passengers. Such notice shall be provided by using the services of—

(A) the organization designated for the accident under section 1136(a)(2); or

(B) other suitably trained individuals.

(3) NOTICE PROVIDED AS SOON AS POSSIBLE.—An assurance that the notice required by paragraph (2) shall be provided as soon as practicable after the foreign air carrier has verified the identity of a passenger on the foreign aircraft, whether or not the names of all of the passengers have been verified.

(4) LIST OF PASSENGERS.—An assurance that the foreign air carrier shall provide, immediately upon request, and update a list (based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), to—

(A) the director of family support services designated for the accident under section 1136(a)(1); and

(B) the organization designated for the accident under section 1136(a)(2).

(5) CONSULTATION REGARDING DISPOSITION OF REMAINS AND EFFECTS.—An assurance that the family of each passenger will be consulted about the disposition of any remains and personal effects of the passenger that are within the control of the foreign air carrier.

(6) RETURN OF POSSESSIONS.—An assurance that, if requested by the family of a passenger, any possession (regardless of its condition) of that passenger that is within the control of the foreign air carrier will be returned to the family unless the possession is needed for the accident investigation or a criminal investigation.

(7) UNCLAIMED POSSESSIONS RETAINED.—An assurance that any unclaimed possession of a passenger within the control of the foreign air carrier will be retained by the foreign air carrier for not less than 18 months after the date of the accident.

(8) MONUMENTS.—An assurance that the family of each passenger will be consulted about construction by the foreign air carrier of any monument to the passengers built in the United States, including any inscription on the monument.

(9) EQUAL TREATMENT OF PASSENGERS.—An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

(10) SERVICE AND ASSISTANCE TO FAMILIES OF PASSENGERS.—An assurance that the foreign air carrier will work with any organization designated under section 1136(a)(2) on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following an accident.

(11) COMPENSATION TO SERVICE ORGANIZATIONS.—An assurance that the foreign air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) for services and assistance provided by the organization.

(12) TRAVEL AND CARE EXPENSES.—An assurance that the foreign air carrier will assist the family of any passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) RESOURCES FOR PLAN.—An assurance that the foreign air carrier will commit sufficient resources to carry out the plan.

(14) SUBSTITUTE MEASURES.—If a foreign air carrier does not wish to comply with paragraph (10), (11), or (12), a description of proposed adequate substitute measures for the requirements of each paragraph with which the foreign air carrier does not wish to comply.

(15) TRAINING OF EMPLOYEES AND AGENTS.—An assurance that the foreign air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(16) CONSULTATION ON CARRIER RESPONSE NOT COVERED BY PLAN.—An assurance that the foreign air carrier, in the event that the foreign air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving major loss of life, the

foreign air carrier[1] will consult with the Board and the Department of State on the provision of the assistance.

(17) NOTICE CONCERNING LIABILITY FOR MANMADE STRUCTURES.—

(A) IN GENERAL.—An assurance that, in the case of an accident that results in significant damage to a manmade structure or other property on the ground that is not government-owned, the foreign air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

(B) MINIMUM CONTENTS.—At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

(18) SIMULTANEOUS ELECTRONIC TRANSMISSION OF NTSB HEARING.—An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier's flight if that city is located in the United States.

(d) PERMIT AND EXEMPTION REQUIREMENT.—The Secretary shall not approve an application for a permit under section 41302 unless the applicant has included as part of the application or request for exemption a plan that meets the requirements of subsection (c).

(e) LIMITATION ON LIABILITY.—A foreign air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the foreign air carrier in preparing or providing a passenger list pursuant to a plan submitted by the foreign air carrier under subsection (c), unless the liability was caused by conduct of the foreign air carrier which was grossly negligent or which constituted intentional misconduct.

(Added Pub. L. 105–148, § 1(a), Dec. 16, 1997, 111 Stat. 2681; amended Pub. L. 106–181, title IV, § 403(a)–(c)(1), Apr. 5, 2000, 114 Stat. 130; Pub. L. 108–176, title VIII, § 809(b), Dec. 12, 2003, 117 Stat. 2589.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c), is the date of enactment of Pub. L. 105–148, which was approved Dec. 16, 1997.

[1] So in original. The words ''the foreign air carrier'' probably should not appear.

AMENDMENTS

2003—Subsec. (c)(17), (18). Pub. L. 108–176 added pars. (17) and (18).

2000—Subsec. (a)(2). Pub. L. 106–181, § 403(a), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''The term 'passenger' includes an employee of a foreign air carrier or air carrier aboard an aircraft.''

Subsec. (b). Pub. L. 106–181, § 403(b), substituted ''major'' for ''significant''.

Subsec. (c)(15), (16). Pub. L. 106–181, § 403(c)(1), added pars. (15) and (16).

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 2000 AMENDMENT

Amendment by section 403(a) and (b) of Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

Pub. L. 106–181, title IV, § 403(c)(2), Apr. 5, 2000, 114 Stat. 131, provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect on the 180th day following the date of the enactment of this Act [Apr. 5, 2000]. On or before such 180th day, each foreign air carrier providing foreign air transportation under chapter 413 of title 49, United States Code, shall submit to the Secretary [of Transportation] and the Chairman of the National Transportation Safety Board an updated plan under section 41313 of such title that meets the requirements of the amendment made by paragraph (1).''

EFFECTIVE DATE

Pub. L. 105–148, § 1(c), Dec. 16, 1997, 111 Stat. 2683, provided that: ''The amendments made by this section [enacting this section] shall take effect on the 180th day following the date of the enactment of this Act [Dec. 16, 1997].''

CHAPTER 415—PRICING

Sec.
41501. Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation.
41502. Establishing joint prices for through routes with other carriers.
41503. Establishing joint prices for through routes provided by State authorized carriers.
41504. Tariffs for foreign air transportation.
41505. Uniform methods for establishing joint prices, and divisions of joint prices, applicable to commuter air carriers.
41506. Price division filing requirements for foreign air transportation.
41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation.
41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation.
41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation.
41510. Required adherence to foreign air transportation tariffs.
41511. Special prices for foreign air transportation.

AMENDMENTS

1997—Pub. L. 105–102, § 2(21), Nov. 20, 1997, 111 Stat. 2205, struck out ''common'' before ''carriers'' in item 41502.

§ 41501. Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation

Every air carrier and foreign air carrier shall establish, comply with, and enforce—

(1) reasonable prices, classifications, rules, and practices related to foreign air transportation; and

(2) for joint prices established for foreign air transportation, reasonable divisions of those prices among the participating air carriers or foreign air carriers without unreasonably discriminating against any of those carriers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1132.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41501	49 App.:1374(a)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 404(a)(2); added Mar. 22, 1972, Pub. L. 92–259, § 1, 86 Stat. 95.

In this chapter, the word ''regulation'' is omitted in restating the phrase ''classifications, rules, regulations, and practices'' because it is covered by the word ''rules'' and to distinguish the rules of an air carrier or foreign air carrier from the regulations of the United States Government. The word ''reasonable'' is substituted for ''just and reasonable'' and ''just, reasonable, and equitable'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. The word ''prices'' is substituted for ''fares'' and ''rates, fares, and charges'' because of the definition of ''price'' in section 40102(a) of the revised title.

In this section, before clause (1), the words ''comply with'' are substituted for ''observe'' for consistency in the revised title and with other titles of the United States Code. In clause (1), the words ''individual and joint'' are omitted as surplus. In clause (2), the words ''unreasonably discriminating'' are substituted for ''unduly prefer or prejudice'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101.

§ 41502. Establishing joint prices for through routes with other carriers

(a) JOINT PRICES.—An air carrier may establish reasonable joint prices and through service with another carrier. However, an air carrier not directly operating aircraft in air transportation (except an air express company) may not establish under this section a joint price for the transportation of property with a carrier subject to subtitle IV of this title.

(b) PRICES, CLASSIFICATIONS, RULES, AND PRACTICES AND DIVISIONS OF JOINT PRICES.—For through service by an air carrier and a carrier subject to subtitle IV of this title, the participating carriers shall establish—

(1) reasonable prices and reasonable classifications, rules, and practices affecting those prices or the value of the transportation provided under those prices; and

(2) for joint prices established for the through service, reasonable divisions of those joint prices among the participating carriers.

(c) STATEMENTS INCLUDED IN TARIFFS.—An air carrier and a carrier subject to subtitle IV of this title that are participating in through service and joint prices shall include in their tariffs, filed with the Secretary of Transportation, a statement showing the through service and joint prices.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1132; Pub. L. 104–88, title III, § 308(*l*), Dec. 29, 1995, 109 Stat. 948; Pub. L. 105–102, § 2(22), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41502(a)	49 App.:1483(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1003(b), 72 Stat. 791.
41502(b)	49 App.:1483(b) (2d sentence).	
41502(c)	49 App.:1483(b) (last sentence).	
	49 App.:155(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), the words ''(except an air express company)'' are substituted for ''(other than companies engaged in the air express business)'' to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''participating carriers'' are substituted for ''carriers parties thereto'' and ''carriers participating therein'' for consistency in this chapter.

In subsection (c), the words ''or the Interstate Commerce Commission, as the case may be'' are omitted because of 49:10526(a)(8)(B).

PUB. L. 105–102

This amends the catchline for 49:41502 to make a technical and conforming amendment necessary because section 308(*l*) of the ICC Termination Act (Public Law 104–88, 109 Stat. 948) struck ''common'' from the text of 49:41502.

AMENDMENTS

1997—Pub. L. 105–102 struck out ''common'' before ''carriers'' in section catchline.

1995—Pub. L. 104–88 substituted ''another carrier'' for ''another common carrier'' in subsec. (a) and ''a carrier'' for ''a common carrier'' in subsecs. (a), (b), and (c).

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of this title.

§ 41503. Establishing joint prices for through routes provided by State authorized carriers

Subject to sections 41309 and 42111 of this title, a citizen of the United States providing transportation under section 41101(b) of this title may make an agreement with an air carrier or foreign air carrier for joint prices for that transportation. The joint prices agreed to must be the lowest of—

(1) the sum of the applicable prices for—

(A) the part of the transportation provided in the State and approved by the appropriate State authority; and

(B) the part of the transportation provided by the air carrier or foreign air carrier;

(2) a joint price established and filed under section 41504 of this title; or

(3) a joint price prescribed by the Secretary of Transportation under section 41507 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1132.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41503	49 App.:1371(d)(4)(A)(ii) (related to joint rates, fares), (B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(4)(A)(ii) (related to joint rates, fares), (B); added Nov. 9, 1977, Pub. L. 95–163, § 9, 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, § 9, 92 Stat. 1713.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''Notwithstanding any other provision of this chapter'' are omitted as surplus. The words ''a citizen of the United States providing transportation under section 41101(b) of this title'' are substituted for ''any citizen of the United States who undertakes, within any State, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage within such State granted by the appropriate State agency'' for clarity and because of the restatement of 49 App.:1371(d)(4)(A)(i) and (ii) (related to joint services) in section 41101(b) of the revised title. The words ''the establishment of'' are omitted as surplus.

§ 41504. Tariffs for foreign air transportation

(a) FILING AND CONTENTS.—In the way prescribed by regulation by the Secretary of Transportation, every air carrier and foreign air carrier shall file with the Secretary, publish, and keep open to public inspection, tariffs showing the prices for the foreign air transportation provided between places served by the carrier and provided between places served by the carrier and places served by another air carrier or foreign air carrier with which through service and joint prices have been established. A tariff—

(1) shall contain—

(A) to the extent the Secretary requires by regulation, a description of the classifications, rules, and practices related to the foreign air transportation;

(B) a statement of the prices in money of the United States; and

(C) other information the Secretary requires by regulation; and

(2) may contain—

(A) a statement of the prices in money that is not money of the United States; and

(B) information that is required under the laws of a foreign country in or to which the air carrier or foreign air carrier is authorized to operate.

(b) CHANGES.—(1) Except as provided in paragraph (2) of this subsection, an air carrier or foreign air carrier may change a price or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, specified in a tariff of the carrier for foreign air transportation only after 30 days after the carrier has filed, published, and posted notice of the proposed change in the same way as required for a tariff under subsection (a) of this section. However, the Secretary may prescribe an alternative notice requirement, of at least 25 days, to allow an air carrier or foreign air carrier to match a proposed change in a passenger fare or a charge of another air carrier or foreign air carrier. A notice under this paragraph must state plainly the change proposed and when the change will take effect.

(2) If the effect of a proposed change would be to begin a passenger fare that is outside of, or not covered by, the range of passenger fares specified under section 41509(e)(2) and (3) of this title, the proposed change may be put into effect only on the expiration of 60 days after the notice is filed under regulations prescribed by the Secretary.

(c) REJECTION OF CHANGES.—The Secretary may reject a tariff or tariff change that is not consistent with this section and regulations prescribed by the Secretary. A tariff or change that is rejected is void.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1133.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41504(a)	49 App.:1373(a) (1st sentence, 2d sentence words before semicolon, last sentence).	Aug. 23, 1958, Pub. L. 85–726, § 403(a), 72 Stat. 758.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(a)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(B) (related to § 403(a), (c)(1), (2)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.
41504(b)(1) ..	49 App.:1373(c)(1).	Aug. 23, 1958, Pub. L. 85–726, § 403(c)(1), (2), 72 Stat. 759; Nov. 9, 1977, Pub. L. 95–163, § 10(a), 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, § 22, 92 Stat. 1724; Feb. 15, 1980, Pub. L. 96–192, § 24(b), (c), 94 Stat. 47.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(1)), (b)(1)(E).	
41504(b)(2) ..	49 App.:1373(c)(2).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(2)), (b)(1)(E).	
41504(c)	49 App.:1373(a) (2d sentence words after semicolon, 3d sentence).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(a)), (b)(1)(E).	

In this section, the words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The words ''passenger fare'' are substituted for ''fare'' for consistency in the revised title.

In subsection (a), before clause (1), the word ''print'' is omitted as being included in ''publish''. The word ''places'' is substituted for ''points'' for consistency in the revised title and with other titles of the United States Code. In clause (1)(A), the word ''services'' is omitted as being included in ''practices''. In clauses (1)(B) and (2)(A), the word ''lawful'' is omitted as surplus.

In subsection (b)(1), the words ''for foreign air transportation'' are added because of 49 App.:1551(a)(4)(B). See the revision notes for subsection (a) of this section. The words ''in the same way as required for a tariff under'' are substituted for ''in accordance with'' for clarity. The words ''proposed change in a passenger fare

or a charge of another air carrier or foreign air carrier'' are substituted for ''fares or charges specified in another air carrier's or foreign air carrier's proposed tariff'' for clarity and consistency in this section.

In subsection (b)(2), the words ''not covered by'' are substituted for ''to which such range of fares does not apply'' to eliminate unnecessary words. The words ''subparagraphs (A) and (B) of section 1482(d)(4) of this Appendix . . . section 1482(d)(7) of this Appendix'' are omitted because those sections related to interstate and overseas air transportation and the source provisions restated in this section relate to foreign air transportation. In addition, the text of 49 App.:1551(a)(5)(D) provides that 49 App.:1482(d) ceased to be in effect on January 1, 1985, except as related to foreign air transportation. The reference in the source provisions to ''section 1482(j)(9) of this Appendix'' has been restated as though it were a reference to 49 App.:1482(j)(10) to correct an apparent error in the International Air Transportation Competition Act of 1979 (Public Law 96–192, 94 Stat. 35). Section 24(b) of S. 1300 of the 96th Congress (the derivative source for the International Air Transportation Competition Act of 1979), as originally passed by both the Senate and the House of Representatives, restated section 403(c)(2) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 759) to read as it now does with a cross–reference to section 1002(j)(9) of the Federal Aviation Act of 1958. Also contained in those versions of S. 1300 in section 24(a) was an amendment to section 1002(j) of the Federal Aviation Act of 1958 to add a paragraph (9) that contained language identical to what is now section 1002(j)(10) of the Federal Aviation Act of 1958. When S. 1300 was reported by the conference committee and enacted into law as the International Air Transportation Competition Act of 1979, section 24(a) had been changed so that a different paragraph (9) was added and what had been paragraph (9) was now designated as a new paragraph (10) to be added. Apparently, when the conference committee redesignated section 1002(j)(9) as 1002(j)(10) it did not make a corresponding change in the cross–reference in section 403(c)(2). See 125 Cong. Rec. 26936, 32147, 36939.

§ 41505. Uniform methods for establishing joint prices, and divisions of joint prices, applicable to commuter air carriers

(a) DEFINITION.—In this section, ''commuter air carrier'' means an air carrier providing transportation under section 40109(f) of this title that provides at least 5 scheduled roundtrips a week between the same 2 places.

(b) GENERAL.—Except as provided in subsection (c) of this section, when the Secretary of Transportation prescribes under section 41508 or 41509 of this title a uniform method generally applicable to establishing joint prices and divisions of joint prices for and between air carriers holding certificates issued under section 41102 of this title, the Secretary shall make that uniform method apply to establishing joint prices and divisions of joint prices for and between air carriers and commuter air carriers.

(c) NOTICE REQUIRED BEFORE MODIFYING, SUSPENDING, OR ENDING TRANSPORTATION.—A commuter air carrier that has an agreement with an air carrier to provide transportation for passengers and property that includes through service by the commuter air carrier over the commuter air carrier's routes and air transportation provided by the air carrier shall give the air carrier and the Secretary at least 90 days' notice before modifying, suspending, or ending the transportation. If the commuter air carrier does not give that notice, the uniform method of establishing joint prices and divisions of joint prices referred to in subsection (b) of this section does not apply to the commuter air carrier.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41505(a)	49 App.:1482a(2), (3).	Oct. 24, 1978, Pub. L. 95–504, § 37(c), 92 Stat. 1742.
41505(b)	49 App.:1482a(1) (1st sentence).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41505(c)	49 App.:1482a(1) (last sentence).	
	49 App.:1551(b)(1)(E).	

In subsection (a), the text of 49 App.:1482a(2)(A) is omitted as unnecessary because the definition of ''air carrier'' in 49 App.:1301(3) is restated in section 40102(a) of the revised title and applies to this section and because the functions of the Civil Aeronautics Board under 49 App.:1482a were transferred to the Secretary of Transportation by 49 App.:1551(b)(1)(E) and the complete name of the Secretary is used the first time the term appears in a section. The text of 49 App.:1482a(3) is omitted as executed. The reference in the source provisions to ''section 416(b)(3) of the Federal Aviation Act of 1958 [49 App. U.S.C. 1386(b)(3)]'' has been restated as though it were a reference to section 416(b)(4) to correct an apparent error in the Airline Deregulation Act of 1978 (Public Law 95–504, 92 Stat. 1705). Section 24 of H.R. 12611 of the 95th Congress (the derivative source for 416(b)(4)), added section 416(b)(3) to the Federal Aviation Act. Section 29(c) added provisions that eventually were classified as 49 App.:1482a. Those provisions contained a reference to section 416(b)(3). When S. 2493 (passed in lieu of the House bill after being amended to contain much of the text of the House bill) was reported by the conference committee and enacted into law, section 32 added what had been a new 416(b)(3) as a new 416(b)(4). However, the conference committee did not make a corresponding change in the cross-reference in section 37(c), that added 49 App.:1482a. See 124 Cong. Rec. 30714, 30716, 36521, 36524. The word ''scheduled'' is substituted for ''pursuant to flight schedules'' to eliminate unnecessary words. The words ''the same 2 places'' are substituted for ''one pair of points'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''Except as provided in subsection (c) of this section'' are added for clarity. The words ''pursuant to its authority'' are omitted as surplus.

In subsection (c), the word ''passengers'' is substituted for ''persons'' for consistency in the revised title and with other titles of the Code. The words ''through service by the commuter air carrier over the commuter air carrier's routes'' are substituted for ''transportation over its routes'' for clarity. The words ''between air carriers and commuter air carriers'' are omitted as surplus.

§ 41506. Price division filing requirements for foreign air transportation

Every air carrier and foreign air carrier shall keep currently on file with the Secretary of Transportation, if the Secretary requires, the established divisions of all joint prices for foreign air transportation in which the carrier participates.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41506	49 App.:1373(d).	Aug. 23, 1958, Pub. L. 85–726, § 403(d), 72 Stat. 759.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(d)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(B) (related to § 403(d)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.

The words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft.

§ 41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a price charged or received by an air carrier or foreign air carrier for foreign air transportation, or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, is or will be unreasonably discriminatory, the Secretary may—

(1) change the price, classification, rule, or practice as necessary to correct the discrimination; and

(2) order the air carrier or foreign air carrier to stop charging or collecting the discriminatory price or carrying out the discriminatory classification, rule, or practice.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41507(a)	49 App.:1482(f) (words after 4th comma).	Aug. 23, 1958, Pub. L. 85–726, § 1002(f), 72 Stat. 789.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41507(b)	49 App.:1482(f) (words before 4th comma).	
	49 App.:1551(b)(1)(E).	

In subsection (a), before clause (1), the words ''individual or joint'' are omitted as surplus. The words ''charged or received'' are substituted for ''demanded, charged, collected, or received'' to eliminate unnecessary words. The words ''unreasonably discriminatory'' are substituted for ''unjustly discriminatory, or unduly preferential, or unduly prejudicial'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. In clause (2), the words ''carrying out'' are substituted for ''enforcing'' for clarity.

In subsection (b), the words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

§ 41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a division between air carriers, foreign air carriers, or both, of a joint price for foreign air transportation is or will be unreasonable or unreasonably discriminatory against any of those carriers, the Secretary shall prescribe a reasonable division of the joint price among those carriers. The Secretary may order the adjustment in the division of the joint price to be made retroactively to the date the complaint was filed, the date the order for an investigation was made, or a later date the Secretary decides is reasonable.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1135.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41508(a)	49 App.:1482(h) (words after 3d comma).	Aug. 23, 1958, Pub. L. 85–726, § 1002(h), 72 Stat. 790; Nov. 9, 1977, Pub. L. 95–163, § 18(c), 91 Stat. 1287.
	49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(5)(D) (related to § 1002(h)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.
41508(b)	49 App.:1482(h) (words before 3d comma).	
	49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)), (b)(1)(E).	

In subsection (a), the words ''interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the state of Hawaii, or overseas or'' are omitted because 49:1551(a)(5)(D) provides that 49 App.:1482(h) applies only to foreign air transportation. The words ''unreasonable or unreasonably discriminatory'' are substituted for ''unjust, unreasonable, inequitable, or unduly preferential or prejudicial'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. The words ''against any of those carriers'' are substituted for ''as between the air carriers or foreign air carriers parties thereto'' to eliminate unnecessary words. The word ''retroactively'' is added for clarity.

In subsection (b), the words ''an opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

§ 41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation

(a) CANCELLATION AND REJECTION.—(1) On the initiative of the Secretary of Transportation or on a complaint filed with the Secretary, the Secretary may conduct a hearing to decide whether a price for foreign air transportation contained in an existing or newly filed tariff of an air carrier or foreign air carrier, a classification, rule, or practice affecting that price, or the value of the transportation provided under that price, is lawful. The Secretary may begin the

hearing at once and without an answer or another formal pleading by the air carrier or foreign air carrier, but only after reasonable notice. If, after the hearing, the Secretary decides that the price, classification, rule, or practice is or will be unreasonable or unreasonably discriminatory, the Secretary may cancel or reject the tariff and prevent the use of the price, classification, rule, or practice.

(2) With or without a hearing, the Secretary may cancel or reject an existing or newly filed tariff of a foreign air carrier and prevent the use of a price, classification, rule, or practice when the Secretary decides that the cancellation or rejection is in the public interest.

(3) In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection, the Secretary shall consider—

(A) the effect of the price on the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation by air carriers and foreign air carriers at the lowest cost consistent with providing the transportation;

(C) the standards prescribed under law related to the character and quality of transportation to be provided by air carriers and foreign air carriers;

(D) the inherent advantages of transportation by aircraft;

(E) the need of the air carrier and foreign air carrier for revenue sufficient to enable the air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier transportation;

(F) whether the price will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation;

(G) reasonably estimated or foreseeable future costs and revenues for the air carrier or foreign air carrier for a reasonably limited future period during which the price would be in effect; and

(H) other factors.

(b) SUSPENSION.—(1)(A) Pending a decision under subsection (a)(1) of this section, the Secretary may suspend a tariff and the use of a price contained in the tariff or a classification, rule, or practice affecting that price.

(B) The Secretary may suspend a tariff of a foreign air carrier and the use of a price, classification, rule, or practice when the suspension is in the public interest.

(2) A suspension becomes effective when the Secretary files with the tariff and delivers to the air carrier or foreign air carrier affected by the suspension a written statement of the reasons for the suspension. To suspend a tariff, reasonable notice of the suspension must be given to the affected carrier.

(3) The suspension of a newly filed tariff may be for periods totaling not more than 365 days after the date the tariff otherwise would go into effect. The suspension of an existing tariff may be for periods totaling not more than 365 days after the effective date of the suspension. The Secretary may rescind at any time the suspension of a newly filed tariff and allow the price, classification, rule, or practice to go into effect.

(c) EFFECTIVE TARIFFS AND PRICES WHEN TARIFF IS SUSPENDED, CANCELED, OR REJECTED.—(1) If a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section and the Secretary does not take final action in the proceeding during the suspension period, the tariff goes into effect at the end of that period subject to cancellation when the proceeding is concluded.

(2)(A) During the period of suspension, or after the cancellation or rejection, of a newly filed tariff (including a tariff that has gone into effect provisionally), the affected air carrier or foreign air carrier shall maintain in effect and use—

(i) the corresponding seasonal prices, or the classifications, rules, and practices affecting those prices or the value of transportation provided under those prices, that were in effect for the carrier immediately before the new tariff was filed; or

(ii) another price provided for under an applicable intergovernmental agreement or understanding.

(B) If the suspended, canceled, or rejected tariff is the first tariff of the carrier for the covered transportation, the carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice affecting the price, or the value of the transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(3) If an existing tariff is suspended or canceled, the affected air carrier or foreign air carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice affecting the price, or the value of the transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(d) RESPONSE TO REFUSAL OF FOREIGN COUNTRY TO ALLOW AIR CARRIER TO CHARGE A PRICE.—When the Secretary finds that the government or an aeronautical authority of a foreign country has refused to allow an air carrier to charge a price contained in a tariff filed and published under section 41504 of this title for foreign air transportation to the foreign country—

(1) the Secretary, without a hearing—

(A) may suspend any existing tariff of a foreign air carrier providing transportation between the United States and the foreign country for periods totaling not more than 365 days after the date of the suspension; and

(B) may order the foreign air carrier to charge, during the suspension periods, prices that are the same as those contained in a tariff (designated by the Secretary) of an air carrier filed and published under section 41504 of this title for foreign air transportation to the foreign country; and

(2) a foreign air carrier may continue to provide foreign air transportation to the foreign country only if the government or aeronautical authority of the foreign country allows an

air carrier to start or continue foreign air transportation to the foreign country at the prices designated by the Secretary.

(e) STANDARD FOREIGN FARE LEVEL.—(1)(A) In this subsection, ''standard foreign fare level'' means—

(i) for a class of fares existing on October 1, 1979, the fare between 2 places (as adjusted under subparagraph (B) of this paragraph) filed for and allowed by the Civil Aeronautics Board to go into effect after September 30, 1979, and before August 13, 1980 (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), or the fare established under section 1002(j)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 24(a) of the International Air Transportation Competition Act of 1979 (Public Law 96–192, 94 Stat. 46); or

(ii) for a class of fares established after October 1, 1979, the fare between 2 places in effect on the effective date of the establishment of the new class.

(B) At least once every 60 days for fuel costs, and at least once every 180 days for other costs, the Secretary shall adjust the standard foreign fare level for the particular foreign air transportation to which the standard foreign fare level applies by increasing or decreasing that level by the percentage change from the last previous period in the actual operating cost for each available seat-mile. In adjusting a standard foreign fare level, the Secretary may not make an adjustment to costs actually incurred. In establishing a standard foreign fare level and making adjustments in the level under this paragraph, the Secretary may use all relevant or appropriate information reasonably available to the Secretary.

(2) The Secretary may not decide that a proposed fare for foreign air transportation is unreasonable on the basis that the fare is too low or too high if the proposed fare is neither more than 5 percent higher nor 50 percent lower than the standard foreign fare level for the same or essentially similar class of transportation. The Secretary by regulation may increase the 50 percent specified in this paragraph.

(3) Paragraph (2) of this subsection does not apply to a proposed fare that is not more than—

(A) 5 percent higher than the standard foreign fare level when the Secretary decides that the proposed fare may be unreasonably discriminatory or that suspension of the fare is in the public interest because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier; or

(B) 50 percent lower than the standard foreign fare level when the Secretary decides that the proposed fare may be predatory or discriminatory or that suspension of the fare is required because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier.

(f) SUBMISSION OF ORDERS TO PRESIDENT.—The Secretary shall submit to the President an order made under this section suspending, canceling, or rejecting a price for foreign air transportation, and an order rescinding the effectiveness of such an order, before publishing the order. Not later than 10 days after its submission, the President may disapprove the order on finding disapproval is necessary for United States foreign policy or national defense reasons.

(g) COMPLIANCE AS CONDITION OF CERTIFICATE OR PERMIT.—This section and compliance with an order of the Secretary under this section are conditions to any certificate or permit held by an air carrier or foreign air carrier. An air carrier or foreign air carrier may provide foreign air transportation only as long as the carrier maintains prices for that transportation that comply with this section and orders of the Secretary under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1135.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41509(a)(1) ..	49 App.:1482(j)(1) (1st sentence words before semicolon, 2d sentence related to tariffs of air carriers and foreign air carriers), (2) (1st sentence words before semicolon, 2d sentence related to tariffs of air carriers and foreign air carriers).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1002(j)(1), (2); added Mar. 22, 1972, Pub. L. 92–259, § 3(a), 86 Stat. 96; restated Feb. 15, 1980, Pub. L. 96–192, §§ 14, 15, 94 Stat. 40.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(B) (related to § 403(c)(3)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.
41509(a)(2) ..	49 App.:1482(j)(1) (2d sentence related to tariffs of foreign air carriers), (2) (2d sentence related to tariffs of foreign air carriers).	
	49 App.:1551(b)(1)(E).	
41509(a)(3) ..	49 App.:1482(j)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1002(j)(5); added Mar. 22, 1972, Pub. L. 92–259, § 3(a), 86 Stat. 98; Feb. 15, 1980, Pub. L. 96–192, § 16, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	
41509(b)	49 App.:1373(c)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 403(c)(3); added Oct. 24, 1978, Pub. L. 95–504, § 22, 92 Stat. 1724.
	49 App.:1482(j)(1) (1st sentence words after semicolon, 3d sentence), (2) (1st sentence words after semicolon).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(3)), (b)(1)(E).	
41509(c)(1) ..	49 App.:1482(j)(1) (4th sentence), (2) (3d sentence).	
	49 App.:1551(b)(1)(E).	
41509(c)(2) ..	49 App.:1482(j)(1) (5th, last sentences).	
41509(c)(3) ..	49 App.:1482(j)(2) (last sentence).	
41509(d)	49 App.:1482(j)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1002(j)(3), (4); added Mar. 22, 1972, Pub. L. 92–259, § 3(a), 86 Stat. 98.
	49 App.:1551(b)(1)(E).	
41509(e)(1)(A).	49 App.:1482(j)(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1002(j)(6), (7), (9), (10); added Feb. 15, 1980, Pub. L. 96–192, § 24(a), 94 Stat. 45, 47.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41509(e)(1)(B).	49 App.:1482(j)(9).	
	49 App.:1551(b)(1)(E).	
41509(e)(2), (3).	49 App.:1482(j)(6), (10).	
	49 App.:1551(b)(1)(E).	
41509(f)	49 App.:1461(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 801(b); added Mar. 22, 1972, Pub. L. 92–259, § 2, 86 Stat. 96.
	49 App.:1551(b)(1)(E).	
41509(g)	49 App.:1482(j)(4).	
	49 App.:1551(b)(1)(E).	

In subsection (a)(1) and (2), the words ''take action to'' are omitted as surplus.

In subsection (a)(1), the words ''individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers)'' and ''and, if it so orders'' are omitted as surplus. The words ''unreasonable or unreasonably discriminatory'' are substituted for ''unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101.

In subsection (a)(3), before clause (A), the words ''In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection'' are substituted for ''In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property'' for consistency in this section and to eliminate unnecessary words. In clause (B), the words ''of persons and property'' are omitted as surplus.

In subsection (b)(1), the words ''contained in the tariff'' are added for clarity.

In subsection (b)(1)(A), the words ''such hearing and'' are omitted as surplus.

In subsection (b)(1)(B), the words ''or in the case of'' are omitted as surplus.

In subsection (b)(2), the text of 49 App.:1373(c)(3) is omitted as obsolete. Reference to 49 App.:1482(g) is omitted because 49 App.:1482(g) does not relate to foreign air transportation and 49 App.:1551(a)(5)(D) provides that 49 App.:1482(g) ceased to be in effect on January 1, 1985, except insofar as it related to foreign air transportation. Reference to 49 App.:1482(j) is omitted because it consistently has been interpreted that the minimum notice requirement does not apply to foreign air transportation.

In subsection (b)(3), the words ''for periods totaling not more than 365 days after'' are substituted for ''a period or periods not exceeding 365 days in the aggregate beyond the time when'' and ''a period or periods not exceeding 365 days in the aggregate from'' to eliminate unnecessary words.

In subsection (c)(1), the words ''a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section'' are added for clarity. The words ''and the Secretary does not take final action in the proceeding during the suspension period'' are substituted for ''the proceeding has not been concluded and an order made within the period of suspension or suspensions'' and ''the proceeding has not been concluded within the period of suspension or suspensions'' to eliminate unnecessary words. The words ''or if the Board shall otherwise so direct'' are omitted as surplus because under subsection (b)(3) of this section the Secretary may rescind a suspension at any time.

In subsection (c)(2)(A), before clause (i), the words ''or suspensions'' are omitted because of 1:1. In clause (i), the words ''corresponding seasonal'' are added for clarity.

In subsection (c)(2)(B) and (3), the words ''providing the same transportation'' are substituted for ''engaged in the same foreign air transportation'' for consistency in this chapter and to eliminate unnecessary words.

In subsection (c)(2)(B), the words ''of the carrier for the covered transportation'' and ''during the period of suspension or'' are added for clarity.

In subsection (c)(3), the words ''If an existing tariff is suspended or canceled'' are added for clarity. The words ''following cancellation of an existing tariff'' are omitted as surplus.

In subsection (d), the word ''properly'' is omitted as surplus. In clause (1)(A), the words ''the operation of'' are omitted as surplus. The words ''periods totaling not more than 365 days after the date of the suspension'' are substituted for ''for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension'' for clarity and to eliminate unnecessary words. In subclause (B), the words ''or suspensions'' are omitted because of 1:1. In clause (2), the words ''by the Secretary'' are added for clarity.

In subsection (e)(1)(B), the words ''within 30 days after February 15, 1980'' are omitted as executed. The words ''as the case may be'' are omitted as surplus.

In subsection (e)(2), the text of 49 App.:1482(j)(6)(A) is omitted as expired. The words ''with respect to any proposed increase filed with the Board after the 180th day after February 15, 1980'' and ''with respect to any proposed decrease filed after February 15, 1980'' are omitted as obsolete. The words ''of persons'' are omitted as surplus because a ''fare'' is only for passengers. The words ''The Secretary by regulation may increase the 50 percent specified in this paragraph'' are substituted for 49 App.:1482(j)(10) for clarity.

In subsection (e)(3)(A), the words ''unreasonably discriminatory'' are substituted for ''unduly preferential, unduly prejudicial, or unjustly discriminatory'' to eliminate unnecessary words and for consistency in the revised title. See the revision notes following 49:10101.

In subsection (g), the words ''express'' and ''now . . . or hereafter issued'' are omitted as surplus. The words ''may provide foreign air transportation only as long as'' are substituted for ''shall be a condition to the continuation of the affected service'' for clarity.

REFERENCES IN TEXT

Section 1002(j)(8) of the Federal Aviation Act of 1958, referred to in subsec. (e)(1)(A)(i), is section 1002(j)(8) of Pub. L. 85–726, which was classified to section 1482(j)(8) of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379.

§ 41510. Required adherence to foreign air transportation tariffs

(a) PROHIBITED ACTIONS BY AIR CARRIERS, FOREIGN AIR CARRIERS, AND TICKET AGENTS.—An air carrier, foreign air carrier, or ticket agent may not—

(1) charge or receive compensation for foreign air transportation that is different from the price specified in the tariff of the carrier that is in effect for that transportation;

(2) refund or remit any part of the price specified in the tariff; or

(3) extend to any person a privilege or facility, related to a matter required by the Secretary of Transportation to be specified in a tariff for foreign air transportation, except as specified in the tariff.

(b) PROHIBITED ACTIONS BY ANY PERSON.—A person may not knowingly—

(1) pay compensation for foreign air transportation of property that is different from the price specified in the tariff in effect for that transportation; or

(2) solicit, accept, or receive—

(A) a refund or remittance of any part of the price specified in the tariff; or

(B) a privilege or facility, related to a matter required by the Secretary to be specified in a tariff for foreign air transportation of property, except as specified in the tariff.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1138.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41510(a)	49 App.:1373(b)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 403(b)(1) (1st sentence), 72 Stat. 759; restated Jan. 3, 1975, Pub. L. 93–623, §§ 7(a), 8(a), 88 Stat. 2105.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(B) (related to § 403(b)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.
41510(b)	49 App.:1373(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 403(b)(2); added Jan. 3, 1975, Pub. L. 93–623, § 8(a), 88 Stat. 2105.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(2)), (b)(1)(E).	

In this section, the words ''greater or less'' are omitted as being included in ''different''. The words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs prices for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The words ''for any service in connection therewith'' are omitted as surplus because the word ''transportation'' includes any services related to the transportation.

In subsection (a), before clause (1), the words ''may not'' are substituted for ''no . . . shall'' and ''no . . . shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise'' for clarity and to eliminate unnecessary words. In clause (1), the words ''demand or collect'' are omitted as being included in ''charge or receive''. The words ''then currently'' are omitted as surplus. In clause (3), the words ''tariff for foreign air transportation'' are substituted for ''such tariffs'' for clarity.

In subsection (b), before clause (1), the words ''shipper, consignor, consignee, forwarder, broker, or other . . . or any director, officer, agent, or employee thereof'' are omitted as surplus. In clause (1), the words ''directly or indirectly, by any device or means'' and ''currently'' are omitted as surplus. In clause (2), before subclause (A), the words ''in any manner or by any device, directly or indirectly, through any agent or broker, or otherwise'' are omitted as surplus. In subclause (B), the word ''favor'' is omitted as surplus.

§ 41511. Special prices for foreign air transportation

(a) FREE AND REDUCED PRICING.—This chapter does not prohibit an air carrier or foreign air carrier, under terms the Secretary of Transportation prescribes, from issuing or interchanging tickets or passes for free or reduced-price foreign air transportation to or for the following:

(1) a director, officer, or employee of the carrier (including a retired director, officer, or employee who is receiving retirement benefits from an air carrier or foreign air carrier).

(2) a parent or the immediate family of such an officer or employee or the immediate family of such a director.

(3) a widow, widower, or minor child of an employee of the carrier who died as a direct result of a personal injury sustained when performing a duty in the service of the carrier.

(4) a witness or attorney attending a legal investigation in which the air carrier is interested.

(5) an individual injured in an aircraft accident and a physician or nurse attending the individual.

(6) a parent or the immediate family of an individual injured or killed in an aircraft accident when the transportation is related to the accident.

(7) an individual or property to provide relief in a general epidemic, pestilence, or other emergency.

(8) other individuals under other circumstances the Secretary prescribes by regulation.

(b) SPACE-AVAILABLE BASIS.—Under terms the Secretary prescribes, an air carrier or foreign air carrier may grant reduced-price foreign air transportation on a space-available basis to the following:

(1) a minister of religion.

(2) an individual who is at least 60 years of age and no longer gainfully employed.

(3) an individual who is at least 65 years of age.

(4) an individual who has severely impaired vision or hearing or another physical or mental handicap and an accompanying attendant needed by that individual.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1139.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41511(a)	49 App.:1373(b)(1) (2d sentence).	Aug. 23, 1958, Pub. L. 85–726, § 403(b)(1) (2d– last sentences), 72 Stat. 759; July 12, 1960, Pub. L. 86–627, 74 Stat. 445; Jan. 3, 1975, Pub. L. 93–623, § 8(a), 88 Stat. 2105; Nov. 9, 1977, Pub. L. 95–163, § 8(a), 91 Stat. 1281.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(B) (related to § 403(b)(1)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.
41511(b)	49 App.:1373(b)(1) (3d–last sentences).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	

In this section, the words ''foreign air transportation'' are substituted for ''transportation'' and ''in the case of overseas or foreign air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The word ''conditions'' is omitted as being included in ''terms''.

In subsection (a)(7), the words ''or other emergency'' are substituted for ''other calamitous visitation'' for consistency.

In subsection (b)(2), the words ''no longer gainfully employed'' are substituted for ''retired'' and ''For pur-

poses of this subsection, the term 'retired' means no longer gainfully employed as defined by the Board'' to eliminate unnecessary words.

In subsection (b)(4), the words ''an individual who has severely impaired vision or hearing or another physical or mental handicap'' are substituted for ''handicapped person'' and ''For the purposes of this subsection, the term 'handicapped person' means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board'' to eliminate unnecessary words.

CHAPTER 417—OPERATIONS OF CARRIERS

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[1] So in original. Does not conform to section catchline.

AMENDMENTS

2003—Pub. L. 108–176, title IV, §§408(b), 410(b), 422(b), title VIII, §810(b), Dec. 12, 2003, 117 Stat. 2547, 2549, 2552, 2590, added items 41721 to 41723 and 41745 to 41748 and struck out former item 41721 ''Reports by carriers on incidents involving animals during air transportation''.

2000—Pub. L. 106–181, title II, §§203(b), 204(b), 210(b), 231(j)(2), title VII, §710(b), Apr. 5, 2000, 114 Stat. 93, 94, 102, 115, 160, added items 41715 to 41718, redesignated former items 41715 and 41716 as 41719 and 41720, respectively, and added items 41721, 41743, and 41744, subchapter III heading, and items 41761 to 41767.

1998—Pub. L. 105–277, div. C, title I, §110(f)(2), Oct. 21, 1998, 112 Stat. 2681–590, which directed amendment of the analysis for subchapter I of chapter 417 by adding item 41716 without specifying the Code title or Act for chapter 417, was executed by adding item 41716 to this analysis to reflect the probable intent of Congress.

1996—Pub. L. 104–264, title II, §278(d), Oct. 9, 1996, 110 Stat. 3250, substituted ''Essential air service authorization'' for ''Ending effective date'' in item 41742.

1994—Pub. L. 103–429, §6(52), Oct. 31, 1994, 108 Stat. 4385, made technical correction to chapter heading.

Pub. L. 103–305, title II, §§206(b), 207(b), Aug. 23, 1994, 108 Stat. 1587, 1588, added items 41714 and 41715.

SUBCHAPTER I—REQUIREMENTS

§ 41701. Classification of air carriers

The Secretary of Transportation may establish—

(1) reasonable classifications for air carriers when required because of the nature of the transportation provided by them; and

(2) reasonable requirements for each class when the Secretary decides those requirements are necessary in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41701	49 App.:1386(a).	Aug. 23, 1958, Pub. L. 85–726, §416(a), 72 Stat. 771.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''from time to time'' are omitted as unnecessary. In clauses (1) and (2), the word ''just'' is omitted as being included in ''reasonable''. In clause (1), the word ''groups'' is omitted as being included in ''classifications''. The words ''transportation provided'' are substituted for ''services performed'' for consistency in the revised title. In clause (2), the word ''requirements'' is substituted for ''rules and regulations pursuant to and consistent with the provisions of this subchapter'' as being more appropriate and for consistency in the revised title.

§ 41702. Interstate air transportation

An air carrier shall provide safe and adequate interstate air transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41702	49 App.:1374(a)(1).	Aug. 23, 1958, Pub. L. 85–726, § 404(a)(1), 72 Stat. 760; Mar. 22, 1972, Pub. L. 92–259, § 1, 86 Stat. 95; Oct. 24, 1978, Pub. L. 95–504, § 23, 92 Stat. 1724.
	49 App.:1551(a)(4)(C) (related to 49 App.:1374(a)(1)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(C) (related to § 404(a)(1)); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1703.

This section is substituted for 49 App.:1374(a)(1) because 49 App.:1551(a)(4)(C) provides that 49 App.:1374 no longer applies to interstate or overseas air transportation except insofar as 49 App.:1374 requires air carriers to provide safe and adequate service.

§ 41703. Navigation of foreign civil aircraft

(a) PERMITTED NAVIGATION.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States only—

(1) if the country of registry grants a similar privilege to aircraft of the United States;

(2) by an airman holding a certificate or license issued or made valid by the United States Government or the country of registry;

(3) if the Secretary of Transportation authorizes the navigation; and

(4) if the navigation is consistent with terms the Secretary may prescribe.

(b) REQUIREMENTS FOR AUTHORIZING NAVIGATION.—The Secretary may authorize navigation under this section only if the Secretary decides the authorization is—

(1) in the public interest; and

(2) consistent with any agreement between the Government and the government of a foreign country.

(c) PROVIDING AIR COMMERCE.—The Secretary may authorize an aircraft permitted to navigate in the United States under this section to provide air commerce in the United States. However, the aircraft may take on for compensation, at a place in the United States, passengers or cargo destined for another place in the United States only if—

(1) specifically authorized under section 40109(g) of this title; or

(2) under regulations the Secretary prescribes authorizing air carriers to provide otherwise authorized air transportation with foreign registered aircraft under lease or charter to them without crew.

(d) PERMIT REQUIREMENTS NOT AFFECTED.—This section does not affect section 41301 or 41302 of this title. However, a foreign air carrier holding a permit under section 41302 does not need to obtain additional authorization under this section for an operation authorized by the permit.

(e) CARGO IN ALASKA.—

(1) IN GENERAL.—For the purposes of subsection (c), eligible cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by any combination of 2 or more air carriers or foreign air carriers in either direction between a place in the United States and a place outside the United States shall not be deemed to have broken its international journey in, be taken on in, or be destined for Alaska.

(2) ELIGIBLE CARGO.—For purposes of paragraph (1), the term ''eligible cargo'' means cargo transported between Alaska and any other place in the United States on a foreign air carrier (having been transported from, or thereafter being transported to, a place outside the United States on a different air carrier or foreign air carrier) that is carried—

(A) under the code of a United States air carrier providing air transportation to Alaska;

(B) on an air carrier way bill of an air carrier providing air transportation to Alaska;

(C) under a term arrangement or block space agreement with an air carrier; or

(D) under the code of a United States air carrier for purposes of transportation within the United States.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1140; Pub. L. 108–176, title VIII, § 808, Dec. 12, 2003, 117 Stat. 2588.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41703(a)	49 App.:1508(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1108(b) (1st, 2d, last sentences), 72 Stat. 798, 799.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41703(b)	49 App.:1508(b) (2d sentence).	
	49 App.:1551(b)(1)(E).	
41703(c)	49 App.:1508(b) (3d sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1108(b) (3d sentence), 72 Stat. 799; Feb. 15, 1980, Pub. L. 96–192, § 20, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	
41703(d)	49 App.:1508(b) (last sentence).	

In subsection (a), the word ''country'' is substituted for ''nation'' for consistency in the revised title and with other titles of the United States Code. In clause (3), the words ''permit, order, or regulation issued'' are omitted as surplus. In clause (4), the words ''conditions, and limitations'' are omitted as being included in ''terms''.

In subsection (b)(2), the word ''agreement'' is substituted for ''treaty, convention, or agreement'' for clarity and consistency in the revised title. The words ''which may be in force'' are omitted as surplus. The words ''or countries'' are omitted because of 1:1.

In subsection (c), before clause (1), the word ''place'' is substituted for ''point'', and the word ''passengers'' is substituted for ''persons'', for consistency in the revised title.

In subsection (d), the word ''affect'' is substituted for ''limit, modify, or amend'' to eliminate unnecessary words.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–176 added subsec. (e).

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.

§ 41704. Transporting property not to be transported in aircraft cabins

Under regulations or orders of the Secretary of Transportation, an air carrier shall transport

as baggage the property of a passenger traveling in air transportation that may not be carried in an aircraft cabin because of a law or regulation of the United States. The carrier is liable to pay an amount not more than the amount declared to the carrier by that passenger for actual loss of, or damage to, the property caused by the carrier. The carrier may impose reasonable charges and conditions for its liability.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41704	49 App.:1516.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1116; added Aug. 5, 1974, Pub. L. 93–366, § 205, 88 Stat. 418.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

The words ''as may be necessary'', ''which . . . lawfully'', and ''by such person'' are omitted as surplus. The words ''The carrier is liable to pay an amount not more than'' are substituted for ''shall assume liability . . . within'' for clarity. The words ''to such person'' are omitted as surplus. The words ''The carrier may impose'' are added for clarity. The words ''terms and'' are omitted as covered by ''conditions''.

§ 41705. Discrimination against handicapped individuals

(a) IN GENERAL.—In providing air transportation, an air carrier, including (subject to section 40105(b)) any foreign air carrier, may not discriminate against an otherwise qualified individual on the following grounds:

(1) the individual has a physical or mental impairment that substantially limits one or more major life activities.

(2) the individual has a record of such an impairment.

(3) the individual is regarded as having such an impairment.

(b) EACH ACT CONSTITUTES SEPARATE OFFENSE.—For purposes of section 46301, a separate violation occurs under this section for each individual act of discrimination prohibited by subsection (a).

(c) INVESTIGATION OF COMPLAINTS.—

(1) IN GENERAL.—The Secretary shall investigate each complaint of a violation of subsection (a).

(2) PUBLICATION OF DATA.—The Secretary shall publish disability-related complaint data in a manner comparable to other consumer complaint data.

(3) REVIEW AND REPORT.—The Secretary shall regularly review all complaints received by air carriers alleging discrimination on the basis of disability and shall report annually to Congress on the results of such review.

(4) TECHNICAL ASSISTANCE.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall—

(A) implement a plan, in consultation with the Department of Justice, the United States Architectural and Transportation Barriers Compliance Board, and the National Council on Disability, to provide technical assistance to air carriers and individuals with disabilities in understanding the rights and responsibilities set forth in this section; and

(B) ensure the availability and provision of appropriate technical assistance manuals to individuals and entities with rights or responsibilities under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1141; Pub. L. 106–181, title VII, § 707(a), Apr. 5, 2000, 114 Stat. 158; Pub. L. 108–176, title V, § 503(d)(1), Dec. 12, 2003, 117 Stat. 2559.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41705	49 App.:1374(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 404(c); added Oct. 2, 1986, Pub. L. 99–435, § 2(a), 100 Stat. 1080.

In this section, before clause (1), the words ''on the following grounds'' are substituted for ''by reason of such handicap'' and ''For purposes of paragraph (1) of this subsection the term 'handicapped individual' means any individual who'' because of the restatement.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(4), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–176 substituted ''section 46301'' for ''section 46301(a)(3)(E)''.

2000—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, substituted ''carrier, including (subject to section 40105(b)) any foreign air carrier,'' for ''carrier'' in introductory provisions, and added subsecs. (b) and (c).

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

ESTABLISHMENT OF HIGHER INTERNATIONAL STANDARDS

Pub. L. 106–181, title VII, § 707(c), Apr. 5, 2000, 114 Stat. 158, provided that: ''The Secretary [of Transportation] shall work with appropriate international organizations and the aviation authorities of other nations to bring about the establishment of higher standards for accommodating handicapped passengers in air transportation, particularly with respect to foreign air carriers that code-share with air carriers.''

RESTRICTIONS ON AIR TRANSPORTATION OF PEANUTS; SCIENTIFIC STUDY ON EFFECT OF AIRBORNE PARTICLES ON PASSENGERS

Pub. L. 106–69, title III, § 346, Oct. 9, 1999, 113 Stat. 1023, provided that: ''Hereafter, none of the funds made available under this Act or any other Act, may be used to implement, carry out, or enforce any regulation issued under section 41705 of title 49, United States Code, including any regulation contained in part 382 of title 14, Code of Federal Regulations, or any other provision of law (including any Act of Congress, regulation, or Executive order or any official guidance or correspondence thereto), that requires or encourages an air car-

rier (as that term is defined in section 40102 of title 49, United States Code) to, on intrastate or interstate air transportation (as those terms are defined in section 40102 of title 49, United States Code)—

''(1) provide a peanut-free buffer zone or any other related peanut-restricted area; or

''(2) restrict the distribution of peanuts,

until 90 days after submission to the Congress and the Secretary of a peer-reviewed scientific study that determines that there are severe reactions by passengers to peanuts as a result of contact with very small airborne peanut particles of the kind that passengers might encounter in an aircraft.''

Similar provisions were contained in Pub. L. 105–277, div. A, § 101(g) [title III, § 372], Oct. 21, 1998, 112 Stat. 2681–439, 2681–479.

§ 41706. Prohibitions against smoking on scheduled flights

(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft in scheduled passenger interstate air transportation or scheduled passenger intrastate air transportation.

(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking in any aircraft in scheduled passenger foreign air transportation.

(c) LIMITATION ON APPLICABILITY.—

(1) IN GENERAL.—If a foreign government objects to the application of subsection (b) on the basis that subsection (b) provides for an extraterritorial application of the laws of the United States, the Secretary shall waive the application of subsection (b) to a foreign air carrier licensed by that foreign government at such time as an alternative prohibition negotiated under paragraph (2) becomes effective and is enforced by the Secretary.

(2) ALTERNATIVE PROHIBITION.—If, pursuant to paragraph (1), a foreign government objects to the prohibition under subsection (b), the Secretary shall enter into bilateral negotiations with the objecting foreign government to provide for an alternative smoking prohibition.

(d) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1141; Pub. L. 106–181, title VII, § 708(a), Apr. 5, 2000, 114 Stat. 159.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41706	49 App.:1374(d)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 404(d)(1); added Dec. 22, 1987, Pub. L. 100–202, § 328(a), 101 Stat. 1329–382; Nov. 21, 1989, Pub. L. 101–164, § 335 (less effective date), 103 Stat. 1098, 1099.
	49 App.:1374 (note).	Nov. 21, 1989, Pub. L. 101–164, § 335 (related to effective date), 103 Stat. 1099.

In subsection (a), before clause (1), the words ''On and after the date of expiration of the 4-month period following December 22, 1987'' are omitted as executed. The words ''of an aircraft'' are added for clarity. The text of 49 App.:1374 (note) is omitted as executed.

AMENDMENTS

2000—Pub. L. 106–181 amended section catchline and text generally. Prior to amendment, text read as follows:

''(a) GENERAL.—An individual may not smoke in the passenger cabin or lavatory of an aircraft on a scheduled airline flight segment in air transportation or intrastate air transportation that is—

''(1) between places in a State of the United States, the District of Columbia, Puerto Rico, or the Virgin Islands;

''(2) between a place in any jurisdiction referred to in clause (1) of this subsection (except Alaska and Hawaii) and a place in any other of those jurisdictions; or

''(3)(A) scheduled for not more than 6 hours' duration; and

''(B)(i) between a place referred to in clause (1) of this subsection (except Alaska and Hawaii) and Alaska or Hawaii; or

''(ii) between Alaska and Hawaii.

''(b) REGULATIONS.—The Secretary of Transportation shall prescribe regulations necessary to carry out this section.''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–181, title VII, § 708(b), Apr. 5, 2000, 114 Stat. 159, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date that is 60 days after the date of the enactment of this Act [Apr. 5, 2000].''

§ 41707. Incorporating contract terms into written instrument

To the extent the Secretary of Transportation prescribes by regulation, an air carrier may incorporate by reference in a ticket or written instrument any term of the contract for providing interstate air transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41707	49 App.:1381(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 411(b); added Oct. 4, 1984, Pub. L. 98–443, § 7(a), 98 Stat. 1706.

§ 41708. Reports

(a) APPLICATION.—To the extent the Secretary of Transportation finds necessary to carry out this subpart, this section and section 41709 of this title apply to a person controlling an air carrier or affiliated (within the meaning of section 11343(c) of this title) with a carrier.

(b) REQUIREMENTS.—The Secretary may require an air carrier or foreign air carrier—

(1)(A) to file annual, monthly, periodical, and special reports with the Secretary in the form and way prescribed by the Secretary; and

(B) to file the reports under oath;

(2) to provide specific answers to questions on which the Secretary considers information to be necessary; and

(3) to file with the Secretary a copy of each agreement, arrangement, contract, or understanding between the carrier and another carrier or person related to transportation affected by this subpart.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41708(a)	49 App.:1377(e) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, § 407(e) (last sentence), 72 Stat. 766.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41708(b)	49 App.:1377(a).	Aug. 23, 1958, Pub. L. 85–726, § 407(a), 72 Stat. 766; Feb. 15, 1980, Pub. L. 96–192, § 10, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word ''reasonably'' is omitted as surplus. The words ''carry out'' are substituted for ''administration'' for consistency in the revised title. The words ''section 11343(c) of this title'' are substituted for ''section 5(8) of the Interstate Commerce Act, as amended'' in section 407(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 766), to cite the corresponding section of the revised title and correct the inaccurate reference to the definition of ''affiliate''.

In subsection (b)(3), the word ''copy'' is substituted for ''true copy'' to eliminate an unnecessary word. The word ''transportation'' is substituted for ''traffic'' for consistency in the revised title.

§ 41709. Records of air carriers

(a) REQUIREMENTS.—The Secretary of Transportation shall prescribe the form of records to be kept by an air carrier, including records on the movement of traffic, receipts and expenditures of money, and the time period during which the records shall be kept. A carrier may keep only records prescribed or approved by the Secretary. However, a carrier may keep additional records if the additional records do not impair the integrity of the records prescribed or approved by the Secretary and are not an unreasonable financial burden on the carrier.

(b) INSPECTION.—(1) The Secretary at any time may—

(A) inspect the land, buildings, and equipment of an air carrier or foreign air carrier when necessary to decide under subchapter II of this chapter or section 41102, 41103, or 41302 of this title whether a carrier is fit, willing, and able; and

(B) inspect records kept or required to be kept by an air carrier, foreign air carrier, or ticket agent.

(2) The Secretary may employ special agents or auditors to carry out this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41709(a)	49 App.:1377(d).	Aug. 23, 1958, Pub. L. 85–726, § 407(d), 72 Stat. 766.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41709(b)	49 App.:1377(e) (1st–3d sentences).	Aug. 23, 1958, Pub. L. 85–726, § 407(e) (1st–3d sentences), 72 Stat. 766; Jan. 3, 1975, Pub. L. 93–623, § 7(b), 88 Stat. 2105; restated Oct. 4, 1984, Pub. L. 98–443, § 9(t), 98 Stat. 1708.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word ''unreasonable'' is substituted for ''undue'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1)(A) and (B), the word ''inspect'' is substituted for ''have access to'' for consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words ''to carry out this subsection'' are substituted for ''who shall have authority under the orders of the Board to inspect and examine lands, buildings, equipment, accounts, records, and memorandums to which the Board has access under this subsection'' to eliminate unnecessary words.

§ 41710. Time requirements

When a matter requiring action of the Secretary of Transportation is submitted under section 40109(a) or (c)–(h), 41309, or 42111 of this title and an evidentiary hearing—

(1) is ordered, the Secretary shall make a final decision on the matter not later than the last day of the 12th month that begins after the date the matter is submitted; or

(2) is not ordered, the Secretary shall make a final decision on the matter not later than the last day of the 6th month that begins after the date the matter is submitted.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41710	49 App.:1490.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1010; added Oct. 24, 1978, Pub. L. 95–504, § 38(a), 92 Stat. 1743.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''matter requiring action of the Secretary'' are substituted for ''application or other written document'' for clarity. The reference to 49 App.:1378 and 1379 is omitted as obsolete because under 49 App.:1551(a)(7), those sections ceased to be in effect on January 1, 1989. The words ''on or after the one-hundred-eightieth day after October 24, 1978'' are omitted as executed. In clauses (1) and (2), the words ''order or'' are omitted as surplus.

§ 41711. Air carrier management inquiry and cooperation with other authorities

In carrying out this subpart, the Secretary of Transportation may—

(1) inquire into the management of the business of an air carrier and obtain from the air carrier, and a person controlling, controlled by, or under common control with the carrier, information the Secretary decides reasonably is necessary to carry out the inquiry;

(2) confer and hold a joint hearing with a State authority; and

(3) exchange information related to aeronautics with a government of a foreign country through appropriate departments, agencies, and instrumentalities of the United States Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41711(1)	49 App.:1385.	Aug. 23, 1958, Pub. L. 85–726, §§204(b), (c), 415, 72 Stat. 743, 770.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41711(2)	49 App.:1324(b).	
	49 App.:1551(b)(1)(E).	
41711(3)	49 App.:1324(c)	
	49 App.:1551(b)(1)(E).	

In this section, before clause (1), the words ''In carrying out'' are substituted for ''in connection with any matter arising under this chapter within its jurisdiction'' and ''in the administration and enforcement of this chapter'' in 49 App.:1324(b) and ''For the purpose of exercising and performing its powers and duties under this chapter'' in 49 App.:1385, and added (as the words relate to 49 App.:1324(c)), for clarity and consistency in this section. In clause (1), the words ''full and complete reports and other'' are omitted as surplus. In clause (2), the words ''State aeronautical agency, or other'' are omitted as surplus. The text of 49 App.:1324(b) (words after 3d comma) is omitted as surplus because of 49:322(c)(3). In clause (3), the words ''government of a foreign country'' are substituted for ''foreign governments'' for consistency in the revised title and with other titles of the United States Code.

§ 41712. Unfair and deceptive practices and unfair methods of competition

(a) IN GENERAL.—On the initiative of the Secretary of Transportation or the complaint of an air carrier, foreign air carrier, or ticket agent, and if the Secretary considers it is in the public interest, the Secretary may investigate and decide whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation. If the Secretary, after notice and an opportunity for a hearing, finds that an air carrier, foreign air carrier, or ticket agent is engaged in an unfair or deceptive practice or unfair method of competition, the Secretary shall order the air carrier, foreign air carrier, or ticket agent to stop the practice or method.

(b) E-TICKET EXPIRATION NOTICE.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier, foreign air carrier, or ticket agent utilizing electronically transmitted tickets for air transportation to fail to notify the purchaser of such a ticket of its expiration date, if any.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 106–181, title II, §221, Apr. 5, 2000, 114 Stat. 102.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41712	49 App.:1381(a).	Aug. 23, 1958, Pub. L. 85–726, §411(a), 72 Stat. 769; Oct. 4, 1984, Pub. L. 98–443, §7(a), 98 Stat. 1706.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

The words ''such action by'' are omitted as surplus. The words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

2000—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 41713. Preemption of authority over prices, routes, and service

(a) DEFINITION.—In this section, ''State'' means a State, the District of Columbia, and a territory or possession of the United States.

(b) PREEMPTION.—(1) Except as provided in this subsection, a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart.

(2) Paragraphs (1) and (4) of this subsection do not apply to air transportation provided entirely in Alaska unless the transportation is air transportation (except charter air transportation) provided under a certificate issued under section 41102 of this title.

(3) This subsection does not limit a State, political subdivision of a State, or political authority of at least 2 States that owns or operates an airport served by an air carrier holding a certificate issued by the Secretary of Transportation from carrying out its proprietary powers and rights.

(4) TRANSPORTATION BY AIR CARRIER OR CARRIER AFFILIATED WITH A DIRECT AIR CARRIER.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier or carrier affiliated with a direct air carrier through common controlling ownership when such carrier is transporting property by aircraft or by motor vehicle (whether or not such property has had or will have a prior or subsequent air movement).

(B) MATTERS NOT COVERED.—Subparagraph (A)—

(i) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization; and

(ii) does not apply to the transportation of household goods, as defined in section 13102 of this title.

(C) APPLICABILITY OF PARAGRAPH (1).—This paragraph shall not limit the applicability of paragraph (1).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 103–305, title VI, §601(b)(1), (2)(A), Aug.

23, 1994, 108 Stat. 1605, 1606; Pub. L. 105–102, § 2(23), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41713(a)	49 App.:1305(c), (d) (related to (a), (b)(1), (c)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 105(a)(2), (b)(1), (c), (d) (related to (a), (b)(1), (c)); added Oct. 24, 1978, Pub. L. 95–504, § 4(a), 92 Stat. 1708.
41713(b)(1) ..	49 App.:1305(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 105(a)(1); added Oct. 24, 1978, Pub. L. 95–504, § 4(a), 92 Stat. 1707; Oct. 4, 1984, Pub. L. 98–443, § 9(u), 98 Stat. 1709.
41713(b)(2) ..	49 App.:1305(a)(2). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41713(b)(3) ..	49 App.:1305(b)(1). 49 App.:1551(b)(1)(E).	

In subsection (a), the words ''the term'' are omitted as surplus. The words ''the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and'' are omitted as surplus because of the definition of ''territory or possession of the United States'' in section 40102(a) of the revised title, 48:734, and section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. The text of 49 App.:1305(c) is omitted as obsolete.

In subsection (b)(1) and (3), the words ''interstate agency or other'' are omitted as surplus. The word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word ''rule'' is omitted as being synonymous with ''regulation''. The words ''standard'' and ''having authority'' are omitted as surplus.

In subsection (b)(2), the words ''pursuant to a certificate issued by the Board'', ''by air of persons, property, or mail'', and ''the State of'' are omitted as surplus.

PUB. L. 105–102

This amends 49:41713(b)(4)(B)(ii) to correct a cross-reference necessary because of the restatement of subtitle IV of title 49 by the ICC Termination Act (Public Law 104–88, 109 Stat. 803).

AMENDMENTS

1997—Subsec. (b)(4)(B)(ii). Pub. L. 105–102 substituted ''13102'' for ''10102''.

1994—Subsec. (b)(2). Pub. L. 103–305, § 601(b)(2)(A), substituted ''Paragraphs (1) and (4) of this subsection do'' for ''Paragraph (1) of this subsection does''.

Subsec. (b)(4). Pub. L. 103–305, § 601(b)(1), added par. (4).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–305 effective Jan. 1, 1995, see section 601(d) of Pub. L. 103–305, set out as a note under section 10521 of this title.

§ 41714. Availability of slots

(a) MAKING SLOTS AVAILABLE FOR ESSENTIAL AIR SERVICE.—

(1) OPERATIONAL AUTHORITY.—If basic essential air service under subchapter II of this chapter is to be provided from an eligible point to a high density airport (other than Ronald Reagan Washington National Airport), the Secretary of Transportation shall ensure that the air carrier providing or selected to provide such service has sufficient operational authority at the high density airport to provide such service. The operational authority shall allow flights at reasonable times taking into account the needs of passengers with connecting flights.

(2) EXEMPTIONS.—If necessary to carry out the objectives of paragraph (1), the Secretary shall by order grant exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to air carriers using Stage 3 aircraft or to commuter air carriers, unless such an exemption would significantly increase operational delays.

(3) ASSURANCE OF ACCESS.—If the Secretary finds that an exemption under paragraph (2) would significantly increase operational delays, the Secretary shall take such action as may be necessary to ensure that an air carrier providing or selected to provide basic essential air service is able to obtain access to a high density airport.

(4) ACTION BY THE SECRETARY.—The Secretary shall issue a final order under this subsection on or before the 60th day after receiving a request from an air carrier for operational authority under this subsection.

(b) SLOTS FOR FOREIGN AIR TRANSPORTATION.—

(1) EXEMPTIONS.—If the Secretary finds it to be in the public interest at a high density airport (other than Ronald Reagan Washington National Airport), the Secretary may grant by order exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable air carriers and foreign air carriers to provide foreign air transportation using Stage 3 aircraft.

(2) SLOT WITHDRAWALS.—The Secretary may not withdraw a slot at Chicago O'Hare International Airport from an air carrier in order to allocate that slot to a carrier to provide foreign air transportation.

(3) EQUIVALENT RIGHTS OF ACCESS.—The Secretary shall not take a slot at a high density airport from an air carrier and award such slot to a foreign air carrier if the Secretary determines that air carriers are not provided equivalent rights of access to airports in the country of which such foreign air carrier is a citizen.

(4) CONVERSIONS OF SLOTS.—Effective May 1, 2000, slots at Chicago O'Hare International Airport allocated to an air carrier as of November 1, 1999, to provide foreign air transportation shall be made available to such carrier to provide interstate or intrastate air transportation.

(c) SLOTS FOR NEW ENTRANTS.—If the Secretary finds it to be in the public interest, the Secretary may by order grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable new entrant air carriers to provide air transportation at high density airports (other than Ronald Reagan Washington National Airport).

(d) SPECIAL RULES FOR RONALD REAGAN WASHINGTON NATIONAL AIRPORT.—

(1) IN GENERAL.—Notwithstanding sections 49104(a)(5) and 49111(e) of this title, or any provision of this section, the Secretary may, only under circumstances determined by the Secretary to be exceptional, grant by order to an air carrier currently holding or operating a slot at Ronald Reagan Washington National Airport an exemption from requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at Ronald Reagan Washington National Airport), to enable that carrier to provide air transportation with Stage 3 aircraft at Ronald Reagan Washington National Airport; except that such exemption shall not—

(A) result in an increase in the total number of slots per day at Ronald Reagan Washington National Airport;

(B) result in an increase in the total number of slots at Ronald Reagan Washington National Airport from 7:00 ante meridiem to 9:59 post meridiem;

(C) increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period by more than 2 operations;

(D) result in the withdrawal or reduction of slots operated by an air carrier;

(E) result in a net increase in noise impact on surrounding communities resulting from changes in timing of operations permitted under this subsection; and

(F) continue in effect on or after the date on which the final rules issued under subsection (f) become effective.

(2) LIMITATION ON APPLICABILITY.—Nothing in this subsection shall adversely affect Exemption No. 5133, as from time-to-time amended and extended.

(e) STUDY.—

(1) MATTERS TO BE CONSIDERED.—The Secretary shall continue the Secretary's current examination of slot regulations and shall ensure that the examination includes consideration of—

(A) whether improvements in technology and procedures of the air traffic control system and the use of quieter aircraft make it possible to eliminate the limitations on hourly operations imposed by the high density rule contained in part 93 of title 14 of the Code of Federal Regulations or to increase the number of operations permitted under such rule;

(B) the effects of the elimination of limitations or an increase in the number of operations allowed on each of the following:

(i) congestion and delay in any part of the national aviation system;

(ii) the impact of noise on persons living near the airport;

(iii) competition in the air transportation system;

(iv) the profitability of operations of airlines serving the airport; and

(v) aviation safety;

(C) the impact of the current slot allocation process upon the ability of air carriers to provide essential air service under subchapter II of this chapter;

(D) the impact of such allocation process upon the ability of new entrant air carriers to obtain slots in time periods that enable them to provide service;

(E) the impact of such allocation process on the ability of foreign air carriers to obtain slots;

(F) the fairness of such process to air carriers and the extent to which air carriers are provided equivalent rights of access to the air transportation market in the countries of which foreign air carriers holding slots are citizens;

(G) the impact, on the ability of air carriers to provide domestic and international air service, of the withdrawal of slots from air carriers in order to provide slots for foreign air carriers; and

(H) the impact of the prohibition on slot withdrawals in subsections (b)(2) and (b)(3) of this section on the aviation relationship between the United States Government and foreign governments, including whether the prohibition in such subsections will require the withdrawal of slots from general and military aviation in order to meet the needs of air carriers and foreign air carriers providing foreign air transportation (and the impact of such withdrawal on general aviation and military aviation) and whether slots will become available to meet the needs of air carriers and foreign air carriers to provide foreign air transportation as a result of the planned relocation of Air Force Reserve units and the Air National Guard at O'Hare International Airport.

(2) REPORT.—Not later than January 31, 1995, the Secretary shall complete the current examination of slot regulations and shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of such examination.

(f) RULEMAKING.—The Secretary shall conduct a rulemaking proceeding based on the results of the study described in subsection (e). In the course of such proceeding, the Secretary shall issue a notice of proposed rulemaking not later than August 1, 1995, and shall issue a final rule not later than 90 days after public comments are due on the notice of proposed rulemaking.

(g) WEEKEND OPERATIONS.—The Secretary shall consider the advisability of revising section 93.227 of title 14, Code of Federal Regulations, so as to eliminate weekend schedules from the determination of whether the 80 percent standard of subsection (a)(1) of that section has been met.

(h) DEFINITIONS.—In this section and sections 41715–41718 and 41734(h), the following definitions apply:

(1) COMMUTER AIR CARRIER.—The term ''commuter air carrier'' means a commuter operator as defined or applied in subpart K or S of part 93 of title 14, Code of Federal Regulations.

(2) HIGH DENSITY AIRPORT.—The term ''high density airport'' means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

(3) NEW ENTRANT AIR CARRIER.—The term ''new entrant air carrier'' means an air carrier that does not hold a slot at the airport concerned and has never sold or given up a slot at that airport after December 16, 1985, and a limited incumbent carrier.

(4) SLOT.—The term ''slot'' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.

(5) LIMITED INCUMBENT AIR CARRIER.—The term ''limited incumbent air carrier'' has the meaning given that term in subpart S of part 93 of title 14, Code of Federal Regulations; except that—

(A) ''20'' shall be substituted for ''12'' in sections 93.213(a)(5), 93.223(c)(3), and 93.225(h);

(B) for purposes of such sections, the term ''slot'' shall include ''slot exemptions''; and

(C) for Ronald Reagan Washington National Airport, the Administrator shall not count, for the purposes of section 93.213(a)(5), slots currently held by an air carrier but leased out on a long-term basis by that carrier for use in foreign air transportation and renounced by the carrier for return to the Department of Transportation or the Federal Aviation Administration.

(6) REGIONAL JET.—The term ''regional jet'' means a passenger, turbofan-powered aircraft with a certificated maximum passenger seating capacity of less than 71.

(7) NONHUB AIRPORT.—The term ''nonhub airport'' means an airport that had less than .05 percent of the total annual boardings in the United States as determined under the Federal Aviation Administration's Primary Airport Enplanement Activity Summary for Calendar Year 1997.

(8) SMALL HUB AIRPORT.—The term ''small hub airport'' means an airport that had at least .05 percent, but less than .25 percent, of the total annual boardings in the United States as determined under the summary referred to in paragraph (7).

(9) MEDIUM HUB AIRPORT.—The term ''medium hub airport'' means an airport that each year has at least .25 percent, but less than 1.0 percent, of the total annual boardings in the United States as determined under the summary referred to in paragraph (7).

(i) 60-DAY APPLICATION PROCESS.—

(1) REQUEST FOR SLOT EXEMPTIONS.—Any slot exemption request filed with the Secretary under this section or section 41716 or 41717 (other than subsection (c)) shall include—

(A) the names of the airports to be served;

(B) the times requested; and

(C) such additional information as the Secretary may require.

(2) ACTION ON REQUEST; FAILURE TO ACT.—Within 60 days after a slot exemption request under this section or section 41716 or 41717 (other than subsection (c)) is received by the Secretary, the Secretary shall—

(A) approve the request if the Secretary determines that the requirements of the section under which the request is made are met;

(B) return the request to the applicant for additional information relating to the request to provide air transportation; or

(C) deny the request and state the reasons for its denial.

(3) 60-DAY PERIOD TOLLED FOR TIMELY REQUEST FOR MORE INFORMATION.—If the Secretary returns under paragraph (2)(B) the request for additional information during the first 20 days after the request is filed, then the 60-day period under paragraph (2) shall be tolled until the date on which the additional information is filed with the Secretary.

(4) FAILURE TO DETERMINE DEEMED APPROVAL.—If the Secretary neither approves the request under paragraph (2)(A) nor denies the request under paragraph (2)(C) within the 60-day period beginning on the date the request is received, excepting any days during which the 60-day period is tolled under paragraph (3), then the request is deemed to have been approved on the 61st day, after the request was filed with the Secretary.

(j) EXEMPTIONS MAY NOT BE TRANSFERRED.—No exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, granted under this section or section 41716, 41717, or 41718 may be bought, sold, leased, or otherwise transferred by the carrier to which it is granted.

(k) AFFILIATED CARRIERS.—For purposes of this section and sections 41716, 41717, and 41718, an air carrier that operates under the same designator code, or has or enters into a code-share agreement, with any other air carrier shall not qualify for a new slot or slot exemption as a new entrant or limited incumbent air carrier at an airport if the total number of slots and slot exemptions held by the two carriers at the airport exceed 20 slots and slot exemptions.

(Added Pub. L. 103–305, title II, § 206(a)(1), Aug. 23, 1994, 108 Stat. 1584; amended Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–66, title III, § 345, Oct. 27, 1997, 111 Stat. 1449; Pub. L. 105–102, § 2(24), Nov. 20, 1997, 111 Stat. 2205; Pub. L. 105–154, § 2(a)(1)(C), (2), Feb. 6, 1998, 112 Stat. 3; Pub. L. 106–181, title II, § 231(a), (d)(2)–(4), Apr. 5, 2000, 114 Stat. 106, 112.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:41714(d)(1) to make a conforming cross-reference necessary because of the restatement of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–373, Public Law 99–591, 100 Stat. 3341–376) by section 2(26) of this Act as chapter 491 of title 49.

AMENDMENTS

2000—Subsec. (a)(3). Pub. L. 106–181, § 231(d)(2), struck out before period at end ''; except that the Secretary shall not be required to make slots available at O'Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service (including slots specifically designated as essential air service slots and slots used for such purposes) to and from such airport is at least 132 slots''.

Subsec. (b)(2). Pub. L. 106–181, § 231(d)(3), inserted ''at Chicago O'Hare International Airport'' after ''a slot'' and struck out before period at end ''if the withdrawal of that slot would result in the withdrawal of slots

from an air carrier at O'Hare International Airport under section 93.223 of title 14, Code of Federal Regulations, in excess of the total withdrawn from that air carrier as of October 31, 1993''.

Subsec. (b)(4). Pub. L. 106–181, § 231(d)(4), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: ''This subsection and exemptions issued under this subsection shall cease to be in effect when the final rules issued under subsection (f) become effective.''

Subsec. (c). Pub. L. 106–181, § 231(a)(4), reenacted subsec. heading and struck out ''(1) IN GENERAL.—'' before ''If the Secretary finds'', ''and the circumstances to be exceptional'' before '', the Secretary may by'', and par. (2) heading and text. Text of par. (2) read as follows: ''Exemptions issued under this subsection shall cease to be in effect on or after the date on which the final rules issued under subsection (f) become effective.''

Subsec. (h). Pub. L. 106–181, § 231(a)(5)(A), in introductory provisions, substituted ''and sections 41715–41718 and 41734(h)'' for ''and section 41734(h)''.

Subsec. (h)(3). Pub. L. 106–181, § 231(a)(5)(B), struck out ''as defined in subpart S of part 93 of title 14, Code of Federal Regulations'' before period at end.

Subsec. (h)(5) to (9). Pub. L. 106–181, § 231(a)(5)(C), added pars. (5) to (9).

Subsec. (i). Pub. L. 106–181, § 231(a)(1), amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: ''Within 120 days after receiving an application for an exemption under subsection (a)(2) to improve air service between a nonhub airport (as defined in section 41731(a)(4)) and a high density airport subject to the exemption authority under subsection (a), the Secretary shall grant or deny the exemption. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure of the grant or denial within 14 calendar days after the determination and state the reasons for the determination.''

Subsecs. (j), (k). Pub. L. 106–181, § 231(a)(2), (3), added subsecs. (j) and (k).

1998—Subsecs. (a)(1), (b)(1), (c)(1), (d). Pub. L. 105–154 substituted ''Ronald Reagan Washington National Airport'' for ''Washington National Airport'' wherever appearing in text and in subsec. (d) heading.

1997—Subsec. (d)(1). Pub. L. 105–102 substituted ''sections 49104(a)(5) and 49111(e) of this title'' for ''sections 6005(c)(5) and 6009(e) of the Metropolitan Washington Airports Act of 1986''.

Subsec. (i). Pub. L. 105–66 added subsec. (i).

1996—Subsec. (e)(2). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

RETURN OF WITHDRAWN SLOTS

Pub. L. 106–181, title II, § 231(d)(5), Apr. 5, 2000, 114 Stat. 112, provided that: ''The Secretary [of Transportation] shall return any slot withdrawn from an air carrier under section 41714(b) of title 49, United States Code, before the date of the enactment of this Act [Apr. 5, 2000], to that carrier on April 30, 2000.''

§ 41715. Phase-out of slot rules at certain airports

(a) TERMINATION.—The rules contained in subparts S and K of part 93, title 14, Code of Federal Regulations, shall not apply—

(1) after July 1, 2002, at Chicago O'Hare International Airport; and

(2) after January 1, 2007, at LaGuardia Airport or John F. Kennedy International Airport.

(b) STATUTORY CONSTRUCTION.—Nothing in this section and sections 41714 and 41716–41718 shall be construed—

(1) as affecting the Federal Aviation Administration's authority for safety and the movement of air traffic; and

(2) as affecting any other authority of the Secretary to grant exemptions under section 41714.

(c) FACTORS TO CONSIDER.—

(1) IN GENERAL.—Before the award of slot exemptions under sections 41714 and 41716–41718, the Secretary of Transportation may consider, among other determining factors, whether the petitioning air carrier's proposal provides the maximum benefit to the United States economy, including the number of United States jobs created by the air carrier, its suppliers, and related activities. The Secretary should give equal consideration to the consumer benefits associated with the award of such exemptions.

(2) APPLICABILITY.—Paragraph (1) does not apply in any case in which the air carrier requesting the slot exemption is proposing to use under the exemption a type of aircraft for which there is not a competing United States manufacturer.

(Added Pub. L. 106–181, title II, § 231(b)(2), Apr. 5, 2000, 114 Stat. 108.)

PRIOR PROVISIONS

A prior section 41715 was renumbered section 41719 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41716. Interim slot rules at New York airports

(a) EXEMPTIONS FOR AIR SERVICE TO SMALL AND NONHUB AIRPORTS.—Subject to section 41714(i), the Secretary of Transportation shall grant, by order, exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports) to any air carrier to provide nonstop air transportation, using an aircraft with a certificated maximum seating capacity of less than 71, between LaGuardia Airport or John F. Kennedy International Airport and a small hub airport or nonhub airport—

(1) if the air carrier was not providing such air transportation during the week of November 1, 1999;

(2) if the number of flights to be provided between such airports by the air carrier during any week will exceed the number of flights provided by the air carrier between such airports during the week of November 1, 1999; or

(3) if the air transportation to be provided under the exemption will be provided with a regional jet as replacement of turboprop air transportation that was being provided during the week of November 1, 1999.

(b) EXEMPTIONS FOR NEW ENTRANT AND LIMITED INCUMBENT AIR CARRIERS.—Subject to section 41714(i), the Secretary shall grant, by order, ex-

emptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to any new entrant air carrier or limited incumbent air carrier to provide air transportation to or from LaGuardia Airport or John F. Kennedy International Airport if the number of slot exemptions granted under this subsection to such air carrier with respect to such airport when added to the slots and slot exemptions held by such air carrier with respect to such airport does not exceed 20; except that the Secretary may grant not to exceed 4 additional slot exemptions at LaGuardia Airport to an incumbent air carrier operating at least 20 but not more than 28 slots at such airport as of October 1, 2004, to provide air transportation between LaGuardia Airport and a small hub airport or nonhub airport.

(c) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

(d) PRESERVATION OF CERTAIN EXISTING SLOT-RELATED AIR SERVICE.—An air carrier that provides air transportation of passengers from LaGuardia Airport or John F. Kennedy International Airport to a small hub airport or nonhub airport, or to an airport that is smaller than a nonhub airport, on or before the date of the enactment of this subsection pursuant to an exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), or where slots were issued to an air carrier conditioned on a specific airport being served, may not terminate air transportation for that route before July 1, 2003, unless—

(1) before October 1, 1999, the Secretary received a written air service termination notice for that route; or

(2) after September 30, 1999, the air carrier submits an air service termination notice under section 41719 for that route and the Secretary determines that the carrier suffered excessive losses, including substantial losses on operations on that route during any three quarters of the year immediately preceding the date of submission of the notice.

(Added Pub. L. 106–181, title II, § 231(c), Apr. 5, 2000, 114 Stat. 109; amended Pub. L. 108–447, div. H, title I, § 199, Dec. 8, 2004, 118 Stat. 3235.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (d), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

PRIOR PROVISIONS

A prior section 41716 was renumbered section 41720 of this title.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–447 inserted before period at end ''; except that the Secretary may grant not to exceed 4 additional slot exemptions at LaGuardia Airport to an incumbent air carrier operating at least 20 but not more than 28 slots at such airport as of October 1, 2004, to provide air transportation between LaGuardia Airport and a small hub airport or nonhub airport''.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41717. Interim application of slot rules at Chicago O'Hare International Airport

(a) SLOT OPERATING WINDOW NARROWED.—Effective July 1, 2001, the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, do not apply with respect to aircraft operating before 2:45 post meridiem and after 8:14 post meridiem at Chicago O'Hare International Airport.

(b) EXEMPTIONS FOR AIR SERVICE TO SMALL AND NONHUB AIRPORTS.—Effective May 1, 2000, subject to section 41714(i), the Secretary of Transportation shall grant, by order, exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to any air carrier to provide nonstop air transportation, using an aircraft with a certificated maximum seating capacity of less than 71, between Chicago O'Hare International Airport and a small hub or nonhub airport—

(1) if the air carrier was not providing such air transportation during the week of November 1, 1999;

(2) if the number of flights to be provided between such airports by the air carrier during any week will exceed the number of flights provided by the air carrier between such airports during the week of November 1, 1999; or

(3) if the air transportation to be provided under the exemption will be provided with a regional jet as replacement of turboprop air transportation that was being provided during the week of November 1, 1999.

(c) EXEMPTIONS FOR NEW ENTRANT AND LIMITED INCUMBENT AIR CARRIERS.—

(1) IN GENERAL.—The Secretary shall grant, by order, 30 exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations, to any new entrant air carrier or limited incumbent air carrier to provide air transportation to or from Chicago O'Hare International Airport.

(2) DEADLINE FOR GRANTING EXEMPTIONS.—The Secretary shall grant an exemption under paragraph (1) within 45 days of the date of the request for such exemption if the person making the request qualifies as a new entrant air carrier or limited incumbent air carrier.

(d) SLOTS USED TO PROVIDE TURBOPROP SERVICE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a slot used to provide turboprop air transportation that is replaced with regional jet air transportation under subsection (b)(3) may not be used, sold, leased, or otherwise transferred after the date the slot exemption is granted to replace the turboprop air transportation.

(2) TWO-FOR-ONE EXCEPTION.—An air carrier that otherwise could not use 2 slots as a result of paragraph (1) may use 1 of such slots to provide air transportation.

(3) WITHDRAWAL OF SLOT.—If the Secretary determines that an air carrier that is using a

slot under paragraph (2) is no longer providing the air transportation that replaced the turboprop air transportation, the Secretary shall withdraw the slot that is being used under paragraph (2).

(4) CONTINUATION.—If the Secretary determines that an air carrier that is using a slot under paragraph (2) is no longer providing the air transportation that replaced the turboprop air transportation with a regional jet, the Secretary shall withdraw the slot being used by the air carrier under paragraph (2) but shall allow the air carrier to continue to hold the exemption granted to the air carrier under subsection (b)(3).

(e) INTERNATIONAL SERVICE AT O'HARE AIRPORT.—

(1) TERMINATION OF REQUIREMENTS.—Subject to paragraph (2), the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, shall be of no force and effect at Chicago O'Hare International Airport after May 1, 2000, with respect to any aircraft providing foreign air transportation.

(2) EXCEPTION RELATING TO RECIPROCITY.—The Secretary may limit access to Chicago O'Hare International Airport with respect to foreign air transportation being provided by a foreign air carrier domiciled in a country to which an air carrier provides nonstop air transportation from the United States if the country in which that carrier is domiciled does not provide reciprocal airport access for air carriers.

(f) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

(g) PRESERVATION OF CERTAIN EXISTING SLOT-RELATED AIR SERVICE.—An air carrier that provides air transportation of passengers from Chicago O'Hare International Airport to a small hub airport or nonhub airport, or to an airport that is smaller than a nonhub airport, on or before the date of the enactment of this subsection pursuant to an exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), or where slots were issued to an air carrier conditioned on a specific airport being served, may not terminate air transportation service for that route for a period of 1 year after the date on which those requirements cease to apply to such airport unless—

(1) before October 1, 1999, the Secretary received a written air service termination notice for that route; or

(2) after September 30, 1999, the air carrier submits an air service termination notice under section 41719 for that route and the Secretary determines that the carrier suffered excessive losses, including substantial losses on operations on that route during the calendar quarters immediately preceding submission of the notice.

(Added Pub. L. 106–181, title II, § 231(d)(1), Apr. 5, 2000, 114 Stat. 110.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (g), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41718. Special rules for Ronald Reagan Washington National Airport

(a) BEYOND-PERIMETER EXEMPTIONS.—The Secretary shall grant, by order, 24 exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

(1) provide air transportation with domestic network benefits in areas beyond the perimeter described in that section;

(2) increase competition by new entrant air carriers or in multiple markets;

(3) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109; and

(4) not result in meaningfully increased travel delays.

(b) WITHIN-PERIMETER EXEMPTIONS.—The Secretary shall grant, by order, 20 exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to air carriers for providing air transportation to airports within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this paragraph in a manner that promotes air transportation—

(1) by new entrant air carriers and limited incumbent air carriers;

(2) to communities without existing nonstop air transportation to Ronald Reagan Washington National Airport;

(3) to small communities;

(4) that will provide competitive nonstop air transportation on a monopoly nonstop route to Ronald Reagan Washington National Airport; or

(5) that will produce the maximum competitive benefits, including low fares.

(c) LIMITATIONS.—

(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

(2) GENERAL EXEMPTIONS.—The exemptions granted under subsections (a) and (b) may not be for operations between the hours of 10:00 p.m. and 7:00 a.m. and may not increase the number of operations at Ronald Reagan Wash-

ington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than 3 operations.

(3) ALLOCATION OF WITHIN-PERIMETER EXEMPTIONS.—Of the exemptions granted under subsection (b)—

(A) without regard to the criteria contained in subsection (b)(1), six shall be for air transportation to small hub airports and nonhub airports;

(B) ten shall be for air transportation to medium hub and smaller airports; and

(C) four shall be for air transportation to airports without regard to their size.

(4) APPLICABILITY TO EXEMPTION NO. 5133.—Nothing in this section affects Exemption No. 5133, as from time-to-time amended and extended.

(d) APPLICATION PROCEDURES.—The Secretary shall establish procedures to ensure that all requests for exemptions under this section are granted or denied within 90 days after the date on which the request is made.

(e) APPLICABILITY OF CERTAIN LAWS.—Neither the request for, nor the granting of an exemption, under this section shall be considered for purposes of any Federal law a major Federal action significantly affecting the quality of the human environment.

(f) COMMUTERS DEFINED.—For purposes of aircraft operations at Ronald Reagan Washington National Airport under subpart K of part 93 of title 14, Code of Federal Regulations, the term ''commuters'' means aircraft operations using aircraft having a certificated maximum seating capacity of 76 or less.

(Added Pub. L. 106–181, title II, § 231(e)(1), Apr. 5, 2000, 114 Stat. 112; amended Pub. L. 108–176, title IV, §§ 425, 426(a), Dec. 12, 2003, 117 Stat. 2555.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176, § 425(a), substituted ''24 exemptions'' for ''12 exemptions'' in introductory provisions.

Subsec. (b). Pub. L. 108–176, § 425(b), in introductory provisions, substituted ''20 exemptions'' for ''12 exemptions'' and struck out ''that were designated as medium hub or smaller airports'' before ''within the perimeter established''.

Subsec. (c)(2). Pub. L. 108–176, § 425(c)(1), substituted ''3 operations'' for ''two operations''.

Subsec. (c)(3)(A). Pub. L. 108–176, § 425(c)(2)(A), substituted ''without regard to the criteria contained in subsection (b)(1), six'' for ''four'' and struck out ''and'' at end.

Subsec. (c)(3)(B). Pub. L. 108–176, § 425(c)(2)(B), substituted ''ten'' for ''eight'' and ''; and'' for period at end.

Subsec. (c)(3)(C). Pub. L. 108–176, § 425(c)(2)(C), added subpar. (C).

Subsec. (d). Pub. L. 108–176, § 425(d), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows:

''(1) DEADLINE FOR SUBMISSION.—All requests for exemptions under this section must be submitted to the Secretary not later than the 30th day following the date of the enactment of this subsection.

''(2) DEADLINE FOR COMMENTS.—All comments with respect to any request for an exemption under this section must be submitted to the Secretary not later than the 45th day following the date of the enactment of this subsection.

''(3) DEADLINE FOR FINAL DECISION.—Not later than the 90th day following the date of the enactment of this Act, the Secretary shall make a decision regarding whether to approve or deny any request that is submitted to the Secretary in accordance with paragraph (1).''

Subsec. (f). Pub. L. 108–176, § 426(a), added subsec. (f).

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

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

REGULATIONS

Pub. L. 108–176, title IV, § 426(b), Dec. 12, 2003, 117 Stat. 2556, provided that: ''The Administrator of the Federal Aviation Administration shall revise regulations to take into account the amendment made by subsection (a) [amending this section].''

GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT

Pub. L. 108–176, title VIII, § 823, Dec. 12, 2003, 117 Stat. 2595, provided that:

''(a) SECURITY PLAN.—The Secretary of Homeland Security shall develop and implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport.

''(b) LANDINGS AND TAKEOFFS.—The Administrator of the Federal Aviation Administration shall allow general aviation aircraft that comply with the requirements of the security plan to land and take off at the Airport except during any period that the President suspends the plan developed under subsection (a) due to national security concerns.

''(c) REPORT.—If the President suspends the security plan developed under subsection (a), the President shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the reasons for the suspension not later than 30 days following the first day of the suspension. The report may be submitted in classified form.''

§ 41719. Air service termination notice

(a) IN GENERAL.—An air carrier may not terminate interstate air transportation from a nonhub airport included on the Secretary of Transportation's latest published list of such airports, unless such air carrier has given the Secretary at least 45 days' notice before such termination.

(b) EXCEPTIONS.—The requirements of subsection (a) shall not apply when—

(1) the carrier involved is experiencing a sudden or unforeseen financial emergency, including natural weather related emergencies, equipment-related emergencies, and strikes;

(2) the termination of transportation is made for seasonal purposes only;

(3) the carrier involved has operated at the affected nonhub airport for 180 days or less;

(4) the carrier involved provides other transportation by jet from another airport serving the same community as the affected nonhub airport; or

(5) the carrier involved makes alternative arrangements, such as a change of aircraft size, or other types of arrangements with a part 121 or part 135 air carrier, that continues uninterrupted service from the affected nonhub airport.

(c) WAIVERS FOR REGIONAL/COMMUTER CARRIERS.—Before January 1, 1995, the Secretary shall establish terms and conditions under which regional/commuter carriers can be excluded from the termination notice requirement.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) PART 121 AIR CARRIER.—The term ''part 121 air carrier'' means an air carrier to which part 121 of title 14, Code of Federal Regulations, applies.

(2) PART 135 AIR CARRIER.—The term ''part 135 air carrier'' means an air carrier to which part 135 of title 14, Code of Federal Regulations, applies.

(3) REGIONAL/COMMUTER CARRIERS.—The term ''regional/commuter carrier'' means—

(A) a part 135 air carrier; or

(B) a part 121 air carrier that provides air transportation exclusively with aircraft having a seating capacity of no more than 70 passengers.

(4) TERMINATION.—The term ''termination'' means the cessation of all service at an airport by an air carrier.

(Added Pub. L. 103–305, title II, § 207(a), Aug. 23, 1994, 108 Stat. 1587, § 41715; amended Pub. L. 103–429, § 6(53), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–287, § 5(73), Oct. 11, 1996, 110 Stat. 3396; renumbered § 41719, Pub. L. 106–181, title II, § 231(b)(1), Apr. 5, 2000, 114 Stat. 108; Pub. L. 108–176, title II, § 225(b)(1), Dec. 12, 2003, 117 Stat. 2528.)

HISTORICAL AND REVISION NOTES

This amends 49:41715(a) to conform to the style of title 49.

AMENDMENTS

2003—Subsec. (d). Pub. L. 108–176 redesignated pars. (2) to (5) as (1) to (4), respectively, and struck out former par. (1) which defined ''nonhub airport''.

2000—Pub. L. 106–181 renumbered section 41715 of this title as this section.

1996—Subsec. (a). Pub. L. 104–287 substituted ''Secretary of Transportation's'' for ''Secretary's''.

1994—Subsec. (d)(1). Pub. L. 103–429 substituted ''41731(a)(4)'' for ''41731(a)(3)''.

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

Section 207(d) of Pub. L. 103–305 provided that: ''The amendments made by this section [enacting this section and amending section 46301 of this title] shall take effect on February 1, 1995.''

§ 41720. Joint venture agreements

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) JOINT VENTURE AGREEMENT.—The term ''joint venture agreement'' means an agreement between two or more major air carriers on or after January 1, 1998, with regard to (A) code-sharing, blocked-space arrangements, long-term wet leases (as defined in section 207.1 of title 14, Code of Federal Regulations) of a substantial number (as defined by the Secretary by regulation) of aircraft, or frequent flyer programs, or (B) any other cooperative working arrangement (as defined by the Secretary by regulation) between 2 or more major air carriers that affects more than 15 percent of the total number of available seat miles offered by the major air carriers.

(2) MAJOR AIR CARRIER.—The term ''major air carrier'' means a passenger air carrier that is certificated under chapter 411 of this title and included in Carrier Group III under criteria contained in section 04 of part 241 of title 14, Code of Federal Regulations.

(b) SUBMISSION OF JOINT VENTURE AGREEMENT.—At least 30 days before a joint venture agreement may take effect, each of the major air carriers that entered into the agreement shall submit to the Secretary—

(1) a complete copy of the joint venture agreement and all related agreements; and

(2) other information and documentary material that the Secretary may require by regulation.

(c) EXTENSION OF WAITING PERIOD.—

(1) IN GENERAL.—The Secretary may extend the 30-day period referred to in subsection (b) until—

(A) in the case of a joint venture agreement with regard to code-sharing, the 150th day following the last day of such period; and

(B) in the case of any other joint venture agreement, the 60th day following the last day of such period.

(2) PUBLICATION OF REASONS FOR EXTENSION.—If the Secretary extends the 30-day period referred to in subsection (b), the Secretary shall publish in the Federal Register the Secretary's reasons for making the extension.

(d) TERMINATION OF WAITING PERIOD.—At any time after the date of submission of a joint venture agreement under subsection (b), the Secretary may terminate the waiting periods referred to in subsections (b) and (c) with respect to the agreement.

(e) REGULATIONS.—The effectiveness of a joint venture agreement may not be delayed due to any failure of the Secretary to issue regulations to carry out this section.

(f) MEMORANDUM TO PREVENT DUPLICATIVE REVIEWS.—Promptly after the date of enactment of this section, the Secretary shall consult with the Assistant Attorney General of the Antitrust Division of the Department of Justice in order to establish, through a written memorandum of understanding, preclearance procedures to prevent unnecessary duplication of effort by the Secretary and the Assistant Attorney General under this section and the antitrust laws of the United States, respectively.

(g) PRIOR AGREEMENTS.—With respect to a joint venture agreement entered into before the date of enactment of this section as to which the Secretary finds that—

(1) the parties submitted the agreement to the Secretary before such date of enactment; and

(2) the parties submitted all information on the agreement requested by the Secretary,

the waiting period described in paragraphs (2) and (3) shall begin on the date, as determined by the Secretary, on which all such information was submitted and end on the last day to which the period could be extended under this section.

(h) LIMITATION ON STATUTORY CONSTRUCTION.—The authority granted to the Secretary under this section shall not in any way limit the authority of the Attorney General to enforce the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

(Added Pub. L. 105–277, div. C, title I, § 110(f)(1), Oct. 21, 1998, 112 Stat. 2681–588, § 41716; renumbered § 41720 and amended Pub. L. 106–181, title II, § 231(b)(1), title VII, § 709, Apr. 5, 2000, 114 Stat. 108, 159.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (f) and (g), is the date of enactment of Pub. L. 105–277, which was approved Oct. 21, 1998.

CODIFICATION

Pub. L. 105–277, § 110(f)(1), which directed amendment of subchapter I of chapter 417 by adding this section at the end, without specifying a Code title or Act, was executed by adding this section at the end of this subchapter to reflect the probable intent of Congress.

AMENDMENTS

2000—Pub. L. 106–181 renumbered section 41716 of this title as this section.

Subsec. (a)(1). Pub. L. 106–181, § 709, substituted ''an agreement between two or more major air carriers'' for ''an agreement entered into by a major air carrier''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 41721. Reports by carriers on incidents involving animals during air transport

(a) IN GENERAL.—An air carrier that provides scheduled passenger air transportation shall submit monthly to the Secretary a report on any incidents involving the loss, injury, or death of an animal (as defined by the Secretary of Transportation) during air transport provided by the air carrier. The report shall be in such form and contain such information as the Secretary determines appropriate.

(b) TRAINING OF AIR CARRIER EMPLOYEES.—The Secretary shall work with air carriers to improve the training of employees with respect to the air transport of animals and the notification of passengers of the conditions under which the air transport of animals is conducted.

(c) SHARING OF INFORMATION.—The Secretary and the Secretary of Agriculture shall enter into a memorandum of understanding to ensure the sharing of information that the Secretary receives under subsection (a).

(d) PUBLICATION OF DATA.—The Secretary shall publish data on incidents and complaints involving the loss, injury, or death of an animal during air transport in a manner comparable to other consumer complaint and incident data.

(e) AIR TRANSPORT.—For purposes of this section, the air transport of an animal includes the entire period during which an animal is in the custody of an air carrier, from check-in of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.

(Added Pub. L. 106–181, title VII, § 710(a), Apr. 5, 2000, 114 Stat. 159.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41722. Delay reduction actions

(a) SCHEDULING REDUCTION MEETINGS.—The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during hours of peak operation if—

(1) the Administrator determines that it is necessary to convene such a meeting; and

(2) the Secretary determines that the meeting is necessary to meet a serious transportation need or achieve an important public benefit.

(b) MEETING CONDITIONS.—Any meeting under subsection (a)—

(1) shall be chaired by the Administrator;

(2) shall be open to all scheduled air carriers; and

(3) shall be limited to discussions involving the airports and time periods described in the Administrator's determination.

(c) FLIGHT REDUCTION TARGETS.—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

(d) DELAY REDUCTION OFFERS.—An air carrier attending the meeting shall make any offer to meet a flight reduction target to the Administrator rather than to another carrier.

(e) TRANSCRIPT.—The Administrator shall ensure that a transcript of the meeting is kept and made available to the public not later than 3 business days after the conclusion of the meeting.

(Added Pub. L. 108–176, title IV, § 422(a), Dec. 12, 2003, 117 Stat. 2552.)

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

§ 41723. Notice concerning aircraft assembly

The Secretary of Transportation shall require, beginning after the last day of the 18-month period following the date of enactment of this section, an air carrier using an aircraft to provide scheduled passenger air transportation to display a notice, on an information placard available to each passenger on the aircraft, that informs the passengers of the nation in which the aircraft was finally assembled.

(Added Pub. L. 108–176, title VIII, § 810(a), Dec. 12, 2003, 117 Stat. 2590.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

§ 41731. Definitions

(a) GENERAL.—In this subchapter—

(1) ''eligible place'' means a place in the United States that—

(A)(i) was an eligible point under section 419 of the Federal Aviation Act of 1958 before October 1, 1988;

(ii) received scheduled air transportation at any time after January 1, 1990; and

(iii) is not listed in Department of Transportation Orders 89–9–37 and 89–12–52 as a place ineligible for compensation under this subchapter; or

(B) determined,[1] on or after October 1, 1988, and before the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, under this subchapter by the Secretary to be eligible to receive subsidized small community air service under section 41736(a).

(2) ''enhanced essential air service'' means scheduled air transportation to an eligible place of a higher level or quality than basic essential air service described in section 41732 of this title.

(b) LIMITATION ON AUTHORITY TO DECIDE A PLACE NOT AN ELIGIBLE PLACE.—The Secretary of Transportation may not decide that a place described in subsection (a)(1) of this section is not an eligible place on the basis of a passenger subsidy at that place or on another basis that is not specifically stated in this subchapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 106–181, title II, § 208, Apr. 5, 2000, 114 Stat. 95; Pub. L. 108–176, title II, § 225(b)(2), Dec. 12, 2003, 117 Stat. 2529.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41731(a)(1) ..	49 App.:1389(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(a); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1508; restated Nov. 5, 1990, Pub. L. 101–508, § 9113(a), 104 Stat. 1388–363.

[1] So in original. Probably should be ''was determined,''.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41731(a)(2) ..	49 App.:1389(k)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(k)(2)–(5); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517.
41731(a)(3) ..	49 App.:1389(k)(3).	
41731(a)(4) ..	49 App.:1389(k)(4).	
41731(a)(5) ..	49 App.:1389(k)(5).	
41731(b)	49 App.:1389(a)(2).	

In this subchapter (except subsection (a)(1)(A) of this section), the word ''place'' is substituted for ''point'' for clarity and consistency in the revised title.

In subsection (a)(1)(A), the words ''was an eligible point . . . before October 1, 1988'' are substituted for ''is defined as an eligible point . . . as in effect before October 1, 1988'' for clarity and to eliminate unnecessary words.

In subsection (a)(2), the words ''described in section 41732 of this title'' are added for clarity.

In subsection (a)(3)–(5), the word ''boardings'' is substituted for ''enplanements'' for clarity and consistency in the revised title.

REFERENCES IN TEXT

Section 419 of the Federal Aviation Act of 1958, referred to in subsec. (a)(1)(A)(i), is section 419 of Pub. L. 85–726, which was classified to section 1389 of former Title 49, Transportation, and was repealed and reenacted as this subchapter by Pub. L. 103–272, §§ 1(e), 7(b), July 5, 1994, 108 Stat. 1143, 1379.

The date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (a)(1)(B), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2003—Subsec. (a)(3) to (5). Pub. L. 108–176 struck out pars. (3) to (5) which defined ''hub airport'', ''nonhub airport'', and ''small hub airport'', respectively.

2000—Subsec. (a)(1). Pub. L. 106–181 redesignated subpars. (A), (B), and (C) as cls. (i), (ii), and (iii), respectively, of subpar (A) and added subpar. (B).

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

CODE-SHARING PILOT PROGRAM

Pub. L. 108–176, title IV, § 406, Dec. 12, 2003, 117 Stat. 2545, provided that:

''(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which the Secretary may require air carriers providing service with compensation under subchapter II of chapter 417 of title 49, United States Code, and major air carriers (as defined in section 41716(a)(2) of such title) serving large hub airports (as defined in section 40102 of such title) to participate in multiple code-share arrangements consistent with normal industry practice whenever and wherever the Secretary determines that such multiple code-sharing arrangements would improve air transportation services.

''(b) LIMITATION.—The Secretary may not require air carriers to participate in the pilot program under this section for more than 10 communities receiving service under subchapter II of chapter 417 of title 49, United States Code.''

MEASUREMENT OF HIGHWAY MILES FOR PURPOSES OF DETERMINING ELIGIBILITY OF ESSENTIAL AIR SERVICE SUBSIDIES

Pub. L. 108–176, title IV, § 409, Dec. 12, 2003, 117 Stat. 2547, provided that:

''(a) REQUEST FOR SECRETARIAL REVIEW.—An eligible place (as defined in section 41731 of title 49, United States Code) with respect to which the Secretary has, in the 2-year period ending on the date of enactment of this Act [Dec. 12, 2003], eliminated (or tentatively eliminated) compensation for essential air service to such place, or terminated (or tentatively terminated) the compensation eligibility of such place for essential air service, under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 [Pub. L. 106–69] (49 U.S.C. 41731 note), section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century [Pub. L. 106–181] (49 U.S.C. 41731 note), or any prior law of similar effect based on the highway mileage of such place from the nearest hub airport (as defined in section 40102 of such title), may request the Secretary to review such action.

''(b) DETERMINATION OF MILEAGE.—In reviewing an action under subsection (a), the highway mileage between an eligible place and the nearest medium hub airport or large hub airport is the highway mileage of the most commonly used route between the place and the medium hub airport or large hub airport. In identifying such route, the Secretary shall identify the most commonly used route for a community by—

''(1) consulting with the Governor of a State or the Governor's designee; and

''(2) considering the certification of the Governor of a State or the Governor's designee as to the most commonly used route.

''(c) ELIGIBILITY DETERMINATION.—Not later than 60 days after receiving a request under subsection (a), the Secretary shall—

''(1) determine whether the eligible place would have been subject to an elimination of compensation eligibility for essential air service, or termination of the eligibility of such place for essential air service, under the provisions of law referred to in subsection (a) based on the determination of the highway mileage of such place from the nearest medium hub airport or large hub airport under subsection (b); and

''(2) issue a final order with respect to the eligibility of such place for essential air service compensation under subchapter II of chapter 417 of title 49, United States Code.

''(d) LIMITATION ON PERIOD OF FINAL ORDER.—A final order issued under subsection (c) shall terminate on September 30, 2007.''

MARKETING PRACTICES

Pub. L. 106–181, title II, § 207, Apr. 5, 2000, 114 Stat. 94, provided that:

''(a) REVIEW OF MARKETING PRACTICES THAT ADVERSELY AFFECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.—Not later than 180 days after the date of the enactment of this Act [Apr. 5, 2000], the Secretary [of Transportation] shall review the marketing practices of air carriers that may inhibit the availability of quality, affordable air transportation services to small- and medium-sized communities, including—

''(1) marketing arrangements between airlines and travel agents;

''(2) code-sharing partnerships;

''(3) computer reservation system displays;

''(4) gate arrangements at airports;

''(5) exclusive dealing arrangements; and

''(6) any other marketing practice that may have the same effect.

''(b) REGULATIONS.—If the Secretary finds, after conducting the review, that marketing practices inhibit the availability of affordable air transportation services to small- and medium-sized communities, then, after public notice and an opportunity for comment, the Secretary may issue regulations that address the problem or take other appropriate action.

''(c) STATUTORY CONSTRUCTION.—Nothing in this section expands the authority or jurisdiction of the Secretary to issue regulations under chapter 417 of title 49, United States Code, or under any other law.''

RESTRICTIONS ON ESSENTIAL AIR SERVICE SUBSIDIES

Pub. L. 106–181, title II, § 205, Apr. 5, 2000, 114 Stat. 94, provided that: ''The Secretary [of Transportation] may provide assistance under subchapter II of chapter 417 of title 49, United States Code, with respect to a place that is located within 70 highway miles of a hub airport (as defined by section 41731 of such title) if the most commonly used highway route between the place and the hub airport exceeds 70 miles.''

Pub. L. 106–69, title III, § 332, Oct. 9, 1999, 113 Stat. 1022, provided that: ''Hereafter, notwithstanding 49 U.S.C. 41742, no essential air service subsidies shall be provided to communities in the 48 contiguous States that are located fewer than 70 highway miles from the nearest large or medium hub airport, or that require a rate of subsidy per passenger in excess of $200 unless such point is greater than 210 miles from the nearest large or medium hub airport.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105–277, div. A, § 101(g) [title III, § 334], Oct. 21, 1998, 112 Stat. 2681–439, 2681–471.

Pub. L. 105–66, title III, § 336, Oct. 27, 1997, 111 Stat. 1447.

§ 41732. Basic essential air service

(a) GENERAL.—Basic essential air service provided under section 41733 of this title is scheduled air transportation of passengers and cargo—

(1) to a hub airport that has convenient connecting or single-plane air service to a substantial number of destinations beyond that airport; or

(2) to a small hub or nonhub airport, when in Alaska or when the nearest hub airport is more than 400 miles from an eligible place.

(b) MINIMUM REQUIREMENTS.—Basic essential air service shall include at least the following:

(1)(A) for a place not in Alaska, 2 daily round trips 6 days a week, with not more than one intermediate stop on each flight; or

(B) for a place in Alaska, a level of service at least equal to that provided in 1976 or 2 round trips a week, whichever is greater, except that the Secretary of Transportation and the appropriate State authority of Alaska may agree to a different level of service after consulting with the affected community.

(2) flights at reasonable times considering the needs of passengers with connecting flights at the airport and at prices that are not excessive compared to the generally prevailing prices of other air carriers for like service between similar places.

(3) for a place not in Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily boardings at the place in any calendar year from 1976-1986 were more than 11 passengers unless—

(A) that level-of-service requirement would require paying compensation in a fis-

cal year under section 41733(d) or 41734(d) or (e) of this title for the place when compensation otherwise would not have been paid for that place in that year; or

(B) the affected community agrees with the Secretary in writing to the use of smaller aircraft to provide service to the place.

(4) service accommodating the estimated passenger and property traffic at an average load factor, for each class of traffic considering seasonal demands for the service, of not more than—

(A) 50 percent; or

(B) 60 percent when service is provided by aircraft with more than 14 passenger seats.

(5) service provided in aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation has not been provided to the place in aircraft with at least 2 engines and using 2 pilots for at least 60 consecutive operating days at any time since October 31, 1978.

(6) service provided by pressurized aircraft when the service is provided by aircraft that regularly fly above 8,000 feet in altitude.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1144.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41732(a)	49 App.:1389(k)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(k)(1); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.
41732(b)	49 App.:1389(k)(1) (last sentence).	

In subsection (a), before clause (1), the words ''provided under section 41733 of this title'' are added for clarity. In clause (2), the words ''from an eligible place'' are added for clarity.

In subsection (b), before clause (1), the words ''Basic essential air service'' are substituted for ''Such transportation'' for clarity and consistency in the revised title. In clause (1)(B), the word ''1976'' is substituted for ''calendar year 1976'' to eliminate unnecessary words. The words ''appropriate State authority of Alaska'' are substituted for ''State agency of the State of Alaska'' for clarity and consistency with the source provisions restated in section 41734(a) of the revised title. The words ''agree to a different level of service'' are substituted for ''otherwise specified under an agreement'' for clarity. In clause (2), the word ''prices'' is substituted for ''rates, fares, and charges'' and ''fares'' because of the definition of ''price'' in section 40102(a) of the revised title. In clause (3), before subclause (A), the word ''boardings'' is substituted for ''enplanements'' for clarity and consistency in the revised title. The words ''from 1976-1986'' are substituted for ''beginning after December 31, 1975, and ending on or before December 31, 1986'' to eliminate unnecessary words. In subclause (B), the words ''affected community'' are substituted for ''community concerned'' for consistency with the source provisions restated in clause (1)(B) of this section. In clause (5), the words ''for at least 60 consecutive operating days'' are substituted for ''on each of 60 consecutive operating days'' for clarity.

§ 41733. Level of basic essential air service

(a) DECISIONS MADE BEFORE OCTOBER 1, 1988.—For each eligible place for which a decision was made before October 1, 1988, under section 419 of the Federal Aviation Act of 1958, establishing the level of essential air transportation, the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place by not later than December 29, 1988.

(b) DECISIONS NOT MADE BEFORE OCTOBER 1, 1988.—(1) The Secretary shall decide on the level of basic essential air service for each eligible place for which a decision was not made before October 1, 1988, establishing the level of essential air transportation, when the Secretary receives notice that service to that place will be provided by only one air carrier. The Secretary shall make the decision by the last day of the 6-month period beginning on the date the Secretary receives the notice. The Secretary may impose notice requirements necessary to carry out this subsection. Before making a decision, the Secretary shall consider the views of any interested community and the appropriate State authority of the State in which the community is located.

(2) Until the Secretary has made a decision on a level of basic essential air service for an eligible place under this subsection, the Secretary, on petition by an appropriate representative of the place, shall prohibit an air carrier from ending, suspending, or reducing air transportation to that place that appears to deprive the place of basic essential air service.

(c) AVAILABILITY OF COMPENSATION.—(1) If the Secretary decides that basic essential air service will not be provided to an eligible place without compensation, the Secretary shall provide notice that an air carrier may apply to provide basic essential air service to the place for compensation under this section. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the demonstrated reliability of the applicant in providing scheduled air service;

(B) the contractual and marketing arrangements the applicant has made with a larger carrier to ensure service beyond the hub airport;

(C) the interline arrangements that the applicant has made with a larger carrier to allow passengers and cargo of the applicant at the hub airport to be transported by the larger carrier through one reservation, ticket, and baggage check-in;

(D) the preferences of the actual and potential users of air transportation at the eligible place, giving substantial weight to the views of the elected officials representing the users; and

(E) for an eligible place in Alaska, the experience of the applicant in providing, in Alaska, scheduled air service, or significant patterns of non-scheduled air service under an exemption granted under section 40109(a) and (c)–(h) of this title.

(2) Under guidelines prescribed under section 41737(a) of this title, the Secretary shall pay the rate of compensation for providing basic essen-

tial air service under this section and section 41734 of this title.

(d) COMPENSATION PAYMENTS.—The Secretary shall pay compensation under this section at times and in the way the Secretary decides is appropriate. The Secretary shall end payment of compensation to an air carrier for providing basic essential air service to an eligible place when the Secretary decides the compensation is no longer necessary to maintain basic essential air service to the place.

(e) REVIEW.—The Secretary shall review periodically the level of basic essential air service for each eligible place. Based on the review and consultations with an interested community and the appropriate State authority of the State in which the community is located, the Secretary may make appropriate adjustments in the level of service, to the extent such adjustments are to a level not less than the basic essential air service level established under subsection (a) for the airport that serves the community.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1145; Pub. L. 106–181, title II, § 209(b), Apr. 5, 2000, 114 Stat. 95.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41733(a)	49 App.:1389(b)(1)(A) (less last sentence last 24 words), (C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(b)(1), (3), (4), (9); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1508, 1509, 1511.
41733(b)(1) ..	49 App.:1389(b)(1)(A) (last sentence last 24 words), (B).	
41733(b)(2) ..	49 App.:1389(b)(9).	
41733(c)	49 App.:1389(b)(3).	
41733(d)	49 App.:1389(b)(4).	
41733(e)	49 App.:1389(b)(1)(D).	

In subsection (a), the words ''the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place'' are substituted for ''Such determination shall be made'' because the determinations for those places have been made. The words ''by not later than December 29, 1988'' are substituted for ''no later than the last day of the 1-year period beginning on December 30, 1987'' for clarity. The words ''and only after consideration of the views of any interested community and the State agency of the State in which such community is located'' and 49 App.:1389(b)(1)(C) are omitted as executed.

In subsections (b)(1) and (e), the words ''appropriate State authority'' are substituted for ''State agency'' for clarity and consistency with the source provisions restated in section 41734(a) of the revised title.

In section (b)(2), the words ''that appears to deprive'' are substituted for ''which reasonably appears to deprive'' to eliminate an unnecessary word.

In subsection (c)(1), before clause (A), the words ''an air carrier may apply to provide basic essential air service to the place for compensation'' are substituted for ''applications may be submitted by any air carrier that is willing to provide such service to such point for compensation'' for clarity and to eliminate unnecessary words.

REFERENCES IN TEXT

Section 419 of the Federal Aviation Act of 1958, referred to in subsec. (a), is section 419 of Pub. L. 85–726, which was classified to section 1389 of former Title 49, Transportation, and was repealed and reenacted as this subchapter by Pub. L. 103–272, §§ 1(e), 7(b), July 5, 1994, 108 Stat. 1143, 1379.

AMENDMENTS

2000—Subsec. (e). Pub. L. 106–181 inserted before period at end '', to the extent such adjustments are to a level not less than the basic essential air service level established under subsection (a) for the airport that serves the community''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECT ON CERTAIN ORDERS

Pub. L. 106–181, title II, § 209(c), Apr. 5, 2000, 114 Stat. 95, provided that: ''All orders issued by the Secretary [of Transportation] after September 30, 1999, and before the date of the enactment of this Act [Apr. 5, 2000] establishing, modifying, or revoking essential air service levels shall be null and void beginning on the 90th day following such date of enactment. During the 90-day period, the Secretary shall reconsider such orders and shall issue new orders consistent with the amendments made by this section [amending this section and section 41742 of this title].''

§ 41734. Ending, suspending, and reducing basic essential air service

(a) NOTICE REQUIRED.—An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of basic essential air service established for that place under section 41733 of this title only after giving the Secretary of Transportation, the appropriate State authority, and the affected communities at least 90 days' notice before ending, suspending, or reducing that transportation.

(b) CONTINUATION OF SERVICE FOR 30 DAYS AFTER NOTICE PERIOD.—If at the end of the notice period under subsection (a) of this section the Secretary has not found another air carrier to provide basic essential air service to the eligible place, the Secretary shall require the carrier providing notice to continue to provide basic essential air service to the place for an additional 30-day period or until another carrier begins to provide basic essential air service to the place, whichever occurs first.

(c) CONTINUATION OF SERVICE FOR ADDITIONAL 30-DAY PERIODS.—If at the end of the 30-day period under subsection (b) of this section the Secretary decides another air carrier will not provide basic essential air service to the place on a continuing basis, the Secretary shall require the carrier providing service to continue to provide service for additional 30-day periods until another carrier begins providing service on a continuing basis. At the end of each 30-day period, the Secretary shall decide if another carrier will provide service on a continuing basis.

(d) CONTINUATION OF COMPENSATION AFTER NOTICE PERIOD.—If an air carrier receiving compensation under section 41733 of this title for providing basic essential air service to an eligible place is required to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section, the Secretary shall continue to pay that

compensation after the last day of that period. The Secretary shall pay the compensation until the Secretary finds another carrier to provide the service to the place or the 90th day after the end of that notice period, whichever is earlier. If, after the 90th day after the end of the 90-day notice period, the Secretary has not found another carrier to provide the service, the carrier required to continue to provide that service shall receive compensation sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(e) COMPENSATION TO AIR CARRIERS ORIGINALLY PROVIDING SERVICE WITHOUT COMPENSATION.—If the Secretary requires an air carrier providing basic essential air service to an eligible place without compensation under section 41733 of this title to continue providing that service after the 90-day notice period required by subsection (a) of this section, the Secretary shall provide the carrier with compensation after the end of the 90-day notice period that is sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(f) FINDING REPLACEMENT CARRIERS.—When the Secretary requires an air carrier to continue to provide basic essential air service to an eligible place, the Secretary shall continue to make every effort to find another carrier to provide at least that basic essential air service to the place on a continuing basis.

(g) TRANSFER OF AUTHORITY.—If an air carrier, providing basic essential air service under section 41733 of this title between an eligible place and an airport at which the Administrator of the Federal Aviation Administration limits the number of instrument flight rule takeoffs and landings of aircraft, provides notice under subsection (a) of this section of an intention to end, suspend, or reduce that service and another carrier is found to provide the service, the Secretary shall require the carrier providing notice to transfer any operational authority the carrier has to land or take off at that airport related to the service to the eligible place to the carrier that will provide the service, if—

(1) the carrier that will provide the service needs the authority; and

(2) the authority to be transferred is being used to provide air service to another eligible place.

(h) NONCONSIDERATION OF SLOT AVAILABILITY.—In determining what is basic essential air service and in selecting an air carrier to provide such service, the Secretary shall not consider as a factor whether slots at a high density airport are available for providing such service.

(i) EXEMPTION FROM HOLD-IN REQUIREMENTS.—If, after the date of enactment of this subsection, an air carrier commences air transportation to an eligible place that is not receiving scheduled passenger air service as a result of the failure of the eligible place to meet requirements contained in an appropriations Act, the air carrier shall not be subject to the requirements of subsections (b) and (c) with respect to such air transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1146; Pub. L. 103–305, title II, § 206(c), Aug. 23, 1994, 108 Stat. 1587; Pub. L. 103–429, § 6(81), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 108–176, title IV, § 401, Dec. 12, 2003, 117 Stat. 2542.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41734(a)	49 App.:1389(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(b)(2), (5)–(8); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1509, 1510.
41734(b)	49 App.:1389(b)(5) (1st sentence).	
41734(c)	49 App.:1389(b)(5) (last sentence).	
41734(d)	49 App.:1389(b)(6)(A).	
41734(e)	49 App.:1389(b)(6)(B).	
41734(f)	49 App.:1389(b)(8).	
41734(g)	49 App.:1389(b)(7).	

In subsection (b), the words ''If at the end of the notice period under subsection (a) of this section'' are substituted for ''If an air carrier has provided notice to the Secretary under paragraph (2) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air service to such point, and if at the conclusion of the applicable period of notice'' for clarity and to eliminate unnecessary words.

In subsection (c), the words ''either with or without compensation'' are omitted as unnecessary. The words ''shall require the carrier providing service to continue to provide service for additional 30-day periods'' are substituted for ''shall extend such requirement for such additional 30-day periods . . . as may be necessary to continue basic essential air service to such eligible point'', and the words ''the Secretary shall decide if another carrier will provide service on a continuing basis'' are substituted for ''making the same determination'', for clarity.

In subsections (d)(1) and (e)(1), the word ''fair'' is omitted as being included in ''reasonable''.

In subsection (d), before clause (1), the words ''basic essential air service'' are substituted for ''air transportation'' and ''such transportation'' for consistency with the source provisions restated in this section. The words ''to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section'' are substituted for ''to continue service to such point beyond the date on which such carrier would, but for paragraph (5), be able

to suspend, terminate, or reduce such service below the level of basic essential air service to such point'' to eliminate unnecessary words.

In subsection (e), before clause (1), the words ''basic essential air service'' are substituted for ''air transportation'' for consistency with the source provisions restated in this section. The words ''after the end of the 90-day notice period that is'' are substituted for ''then'' for clarity.

In subsection (f), the words ''basic essential air service'' are substituted for ''air transportation which such air carrier has proposed to terminate, reduce, or suspend'' for consistency with the source provisions restated in this section.

In subsection (g)(2), the words ''the authority to be transferred is being used only to provide air service to the eligible place'' are substituted for ''unless . . . such authority is being used to provide air service with respect to more than 1 eligible point'' for clarity and because of the restatement.

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (i), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

AMENDMENTS

2003—Subsec. (i). Pub. L. 108–176 added subsec. (i).

1994—Subsec. (g)(2). Pub. L. 103–429 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''the authority to be transferred is being used only to provide air service to the eligible place.''

Subsec. (h). Pub. L. 103–305 added subsec. (h).

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 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

DEFINITIONS

For definitions of the terms ''slot'' and ''high density airport'' used in subsec. (h) of this section, see section 41714(h) of this title.

§ 41735. Enhanced essential air service

(a) PROPOSALS.—(1) A State or local government may submit a proposal to the Secretary of Transportation for enhanced essential air service to an eligible place for which basic essential air service is being provided under section 41733 of this title. The proposal shall—

(A) specify the level and type of enhanced essential air service the State or local government considers appropriate; and

(B) include an agreement related to compensation required for the proposed service.

(2) The agreement submitted under paragraph (1)(B) of this subsection shall provide that—

(A) the State or local government or a person pay 50 percent of the compensation required for the proposed service and the United States Government pay the remaining 50 percent; or

(B)(i) the Government pay 100 percent of the compensation; and

(ii) if the proposed service is not successful for at least a 2-year period under the criteria prescribed by the Secretary under paragraph (3) of this subsection, the eligible place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(3) The Secretary shall prescribe by regulation objective criteria for deciding whether enhanced essential air service to an eligible place under this section is successful in terms of—

(A) increasing passenger usage of the airport facilities at the place; and

(B) reducing the amount of compensation provided by the Secretary under this subchapter for that service.

(b) DECISIONS.—Not later than 90 days after receiving a proposal under subsection (a) of this section, the Secretary shall—

(1) approve the proposal if the Secretary decides the proposal is reasonable; or

(2) if the Secretary decides the proposal is not reasonable, disapprove the proposal and notify the State or local government of the disapproval and the reasons for the disapproval.

(c) COMPENSATION PAYMENTS.—(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. Compensation for enhanced essential air service under this section may be paid only for the costs incurred in providing air service to an eligible place that are in addition to the costs incurred in providing basic essential air service to the place under section 41733 of this title. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of enhanced essential air service;

(B) the State or local government or person agreeing to pay compensation under this section continues to pay the compensation; and

(C) the Secretary decides the compensation is necessary to maintain the service to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(d) REVIEW.—(1) The Secretary shall review periodically the enhanced essential air service provided to each eligible place under this section.

(2) For service for which the Government pays 50 percent of the compensation, based on the review and consultation with the affected community and the State or local government or person paying the remaining 50 percent of the compensation, the Secretary shall make appropriate adjustments in the type and level of service to the place.

(3) For service for which the Government pays 100 percent of the compensation, based on the review and consultation with the State or local government submitting the proposal, the Secretary shall decide whether the service has succeeded for at least a 2-year period under the criteria prescribed under subsection (a)(3) of this section. If unsuccessful, the place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(e) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of enhanced essential air service established for that place by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation for that service at least 30 days' notice before ending, suspending, or reducing the service. This subsection does not relieve the carrier of an obligation under section 41734 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1148.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41735(a)	49 App.:1389(c)(1), (3)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(c); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1512.
41735(b)	49 App.:1389(c)(2).	
41735(c)	49 App.:1389(c)(5)–(7).	
41735(d)	49 App.:1389(c)(3)(A), (B).	
41735(e)	49 App.:1389(c)(4).	

In subsections (a)(2)(B)(ii) and (d)(3), the words ''air service or air transportation for which compensation is paid'' are substituted for ''air service for which compensation is payable'' for consistency with the source provisions restated in sections 41733 and 41736 of the revised title.

In subsection (a)(3), the word ''prescribe'' is substituted for ''establish'' for consistency in the revised title.

In subsection (b), before clause (1), the words ''issue a decision'' are omitted as unnecessary because of the restatement.

In subsection (c)(1)(B), the words ''State or local government or person agreeing to pay compensation under this section'' are substituted for ''government or person agreeing to pay any non-Federal share'' for clarity.

In subsection (c)(2), the words ''State or local government or person agreeing to pay compensation under this section'' are substituted for ''non-Federal payments for enhanced essential air service under this subsection'' for clarity.

In subsection (d)(2), the words ''For service for which the Government pays 50 percent of the compensation'' are substituted for ''If the enhanced essential air service approved under this subsection is to be at a 50 percent Federal share'' because of the restatement. The words ''the remaining 50 percent'' are substituted for ''the non-Federal'' for clarity and consistency in this section.

In subsection (d)(3), the words ''For service for which the Government pays 100 percent of the compensation'' are substituted for ''If the enhanced essential air service approved under this subsection is to be at a 100 percent Federal share'' because of the restatement.

§ 41736. Air transportation to noneligible places

(a) PROPOSALS AND DECISIONS.—(1) A State or local government may propose to the Secretary of Transportation that the Secretary provide compensation to an air carrier to provide air transportation to a place that is not an eligible place under this subchapter. Not later than 90 days after receiving a proposal under this section, the Secretary shall—

(A) decide whether to designate the place as eligible to receive compensation under this section; and

(B)(i) approve the proposal if the State or local government or a person is willing and able to pay 50 percent of the compensation for providing the transportation, and notify the State or local government of the approval; or

(ii) disapprove the proposal if the Secretary decides the proposal is not reasonable under paragraph (2) of this subsection, and notify the State or local government of the disapproval and the reasons for the disapproval.

(2) In deciding whether a proposal is reasonable, the Secretary shall consider, among other factors—

(A) the traffic-generating potential of the place;

(B) the cost to the United States Government of providing the proposed transportation; and

(C) the distance of the place from the closest hub airport.

(b) APPROVAL FOR CERTAIN AIR TRANSPORTATION.—Notwithstanding subsection (a)(1)(B) of this section, the Secretary shall approve a proposal under this section to compensate an air carrier for providing air transportation to a place in the 48 contiguous States or the District of Columbia and designate the place as eligible for compensation under this section if—

(1) at any time before October 23, 1978, the place was served by a carrier holding a certificate under section 401 of the Federal Aviation Act of 1958;

(2) the place is more than 50 miles from the nearest small hub airport or an eligible place;

(3) the place is more than 150 miles from the nearest hub airport; and

(4) the State or local government submitting the proposal or a person is willing and able to pay 25 percent of the cost of providing the compensated transportation.

Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997.

(c) LEVEL OF AIR TRANSPORTATION.—(1) If the Secretary designates a place under subsection (a)(1) of this section as eligible for compensation under this section, the Secretary shall decide, not later than 6 months after the date of the designation, on the level of air transportation to be provided under this section. Before making a decision, the Secretary shall consider the views of any interested community, the appropriate State authority of the State in which the place is located, and the State or local government or person agreeing to pay compensation for the transportation under subsection (b)(4) of this section.

(2) After making the decision under paragraph (1) of this subsection, the Secretary shall provide notice that any air carrier that is willing to provide the level of air transportation established under paragraph (1) for a place may submit an application to provide the transportation. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the factors listed in section 41733(c)(1) of this title; and

(B) the views of the State or local government or person agreeing to pay compensation for the transportation.

(d) COMPENSATION PAYMENTS.—(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of air transportation established by the Secretary under subsection (c)(1) of this section;

(B) the State or local government or person agreeing to pay compensation for transportation under this section continues to pay that compensation; and

(C) the Secretary decides the compensation is necessary to maintain the transportation to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(e) REVIEW.—The Secretary shall review periodically the level of air transportation provided under this section. Based on the review and consultation with any interested community, the appropriate State authority of the State in which the community is located, and the State or local government or person paying compensation under this section, the Secretary may make appropriate adjustments in the level of transportation.

(f) WITHDRAWAL OF ELIGIBILITY DESIGNATIONS.—After providing notice and an opportunity for interested persons to comment, the Secretary may withdraw the designation of a place under subsection (a)(1) of this section as eligible to receive compensation under this section if the place has received air transportation under this section for at least 2 years and the Secretary decides the withdrawal would be in the public interest. The Secretary by regulation shall prescribe standards for deciding whether the withdrawal of a designation under this subsection is in the public interest. The standards shall include the factors listed in subsection (a)(2) of this section.

(g) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier providing air transportation for compensation under this section may end, suspend, or reduce that transportation below the level of transportation established by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation under this section at least 30 days' notice before ending, suspending, or reducing the transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1149; Pub. L. 106–181, title II, § 202, Apr. 5, 2000, 114 Stat. 91.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41736(a)	49 App.:1389(d)(1), (2)(A), (C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(d); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1513.
41736(b)	49 App.:1389(d)(2)(B).	
41736(c)(1) ..	49 App.:1389(d)(3)(A).	
41736(c)(2) ..	49 App.:1389(d)(4).	
41736(d)	49 App.:1389(d)(5), (7), (8).	
41736(e)	49 App.:1389(d)(3)(B).	
41736(f)	49 App.:1389(d)(2)(D).	
41736(g)	49 App.:1389(d)(6).	

In subsection (a)(1), before clause (A), the words ''that the Secretary provide compensation to an air carrier to provide air transportation'' are substituted for ''for compensated air transportation in accordance with this subsection'' for clarity. In clause (B)(i), the word ''transportation'' is substituted for ''proposed compensated air transportation'' to eliminate unnecessary words.

In subsections (c)–(g), the word ''transportation'' is substituted for ''service'' for consistency with the source provisions restated in subsections (a) and (b) of this section.

In subsections (c)(1) and (e), the words ''appropriate State authority'' are substituted for ''State agency'' for clarity and consistency with the source provisions restated in section 41734(a) of the revised title.

In subsection (d), the text of 49 App.:1389(d)(5) is omitted as unnecessary because of the restatement.

In subsection (f), the word ''prescribe'' is substituted for ''establish'' for consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

Section 401 of the Federal Aviation Act of 1958, referred to in subsec. (b)(1), is section 401 of Pub. L. 85–726, which was classified to section 1371 of former Title 49, Transportation, and was repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For disposition of section 1371 of former Title 49, see Table at the beginning of Title 49.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–181 inserted concluding provisions.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 41737. Compensation guidelines, limitations, and claims

(a) COMPENSATION GUIDELINES.—(1) The Secretary of Transportation shall prescribe guidelines governing the rate of compensation payable under this subchapter. The guidelines shall be used to determine the reasonable amount of compensation required to ensure the continuation of air service or air transportation under this subchapter. The guidelines shall—

(A) provide for a reduction in compensation when an air carrier does not provide service or transportation agreed to be provided;

(B) consider amounts needed by an air carrier to promote public use of the service or

transportation for which compensation is being paid; and

(C) include expense elements based on representative costs of air carriers providing scheduled air transportation of passengers, property, and mail on aircraft of the type the Secretary decides is appropriate for providing the service or transportation for which compensation is being provided.

(2) Promotional amounts described in paragraph (1)(B) of this subsection shall be a special, segregated element of the compensation provided to a carrier under this subchapter.

(b) REQUIRED FINDING.—The Secretary may pay compensation to an air carrier for providing air service or air transportation under this subchapter only if the Secretary finds the carrier is able to provide the service or transportation in a reliable way.

(c) CLAIMS.—Not later than 15 days after receiving a written claim from an air carrier for compensation under this subchapter, the Secretary shall—

(1) pay or deny the United States Government's share of a claim; and

(2) if denying the claim, notify the carrier of the denial and the reasons for the denial.

(d) AUTHORITY TO MAKE AGREEMENTS AND INCUR OBLIGATIONS.—(1) The Secretary may make agreements and incur obligations from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to pay compensation under this subchapter. An agreement by the Secretary under this subsection is a contractual obligation of the Government to pay the Government's share of the compensation.

(2) Not more than $38,600,000 is available to the Secretary out of the Fund for each of the fiscal years ending September 30, 1993–1998, to incur obligations under this section. Amounts made available under this section remain available until expended.

(e) ADJUSTMENTS TO ACCOUNT FOR SIGNIFICANTLY INCREASED COSTS.—

(1) IN GENERAL.—If the Secretary determines that air carriers are experiencing significantly increased costs in providing air service or air transportation for which compensation is being paid under this subchapter, the Secretary may increase the rates of compensation payable under this subchapter without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

(2) READJUSTMENT IF COSTS SUBSEQUENTLY DECLINE.—If an adjustment is made under paragraph (1), and total unit costs subsequently decrease to at least the total unit cost reflected in the compensation rate, then the Secretary may reverse the adjustment previously made under paragraph (1) without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

(3) SIGNIFICANTLY INCREASED COSTS DEFINED.—In this subsection, the term ''significantly increased costs'' means a total unit cost increase (but not increases in individual unit costs) of 10 percent or more in relation to the total unit cost reflected in the compensation rate, based on the carrier's internal audit of its financial statements if such cost increase is incurred for a period of at least 2 consecutive months.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1151; Pub. L. 108–176, title IV, § 402(a), Dec. 12, 2003, 117 Stat. 2543.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41737(a)	49 App.:1389(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(e)(2)–(g); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.
41737(b)	49 App.:1389(e)(2).	
41737(c)	49 App.:1389(g).	
41737(d)	49 App.:1389(*l*).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(*l*); added Nov. 5, 1990, Pub. L. 101–508, § 9113(b)(1), 104 Stat. 1388–363.

In subsection (a)(1), before clause (A), the word ''prescribe'' is substituted for ''establish'' to eliminate an executed word. The words ''air service or air transportation under this subchapter'' are substituted for ''air service under this section'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clause (C), the words ''the service or transportation for which compensation is being provided'' are substituted for ''such service'' for clarity.

In subsection (a)(2), the words ''compensation provided to a carrier under this subchapter'' are substituted for ''required compensation'' for clarity.

In subsection (b), the words ''air service or air transportation'' are substituted for ''air service'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

In subsection (d)(2), the reference to fiscal year 1992 is omitted as obsolete.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–176 added subsec. (e).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title IV, § 402(b), Dec. 12, 2003, 117 Stat. 2543, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect 30 days after the date of enactment of this Act [Dec. 12, 2003].''

§ 41738. Fitness of air carriers

Notwithstanding section 40109(a) and (c)–(h) of this title, an air carrier may provide air service to an eligible place or air transportation to a place designated under section 41736 of this title only when the Secretary of Transportation decides that—

(1) the carrier is fit, willing, and able to perform the service or transportation; and

(2) aircraft used to provide the service or transportation, and operations related to the service or transportation, conform to the safety standards prescribed by the Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41738	49 App.:1389(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(e)(1); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.

In this section, before clause (1), the words ''air transportation to a place'' are substituted for ''service to a point'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clauses (1) and (2), the words ''service or transportation'' are substituted for ''such service'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

§ 41739. Air carrier obligations

If at least 2 air carriers make an agreement to operate under or use a single carrier designator code to provide air transportation, the carrier whose code is being used shares responsibility with the other carriers for the quality of transportation provided the public under the code by the other carriers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41739	49 App.:1389(i).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(i); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words ''quality of transportation'' are substituted for ''quality of service'' for clarity and consistency in this section.

§ 41740. Joint proposals

The Secretary of Transportation shall encourage the submission of joint proposals, including joint fares, by 2 or more air carriers for providing air service or air transportation under this subchapter through arrangements that maximize the service or transportation to and from major destinations beyond the hub.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 108–176, title IV, § 403, Dec. 12, 2003, 117 Stat. 2543.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41740	49 App.:1389(j).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(j); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words ''air service or air transportation'' are substituted for ''air service'', and the words ''the service or transportation'' are substituted for ''service'', for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

AMENDMENTS

2003—Pub. L. 108–176 inserted '', including joint fares,'' after ''joint proposals''.

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.

§ 41741. Insurance

The Secretary of Transportation may pay an air carrier compensation under this subchapter only when the carrier files with the Secretary an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay for bodily injury to, or death of, an individual, or for loss of or damage to property of others, resulting from the operation of aircraft, but not more than the amount of the policy or plan limits.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41741	49 App.:1389(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(h); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words ''The Secretary of Transportation may pay . . . only when'' are substituted for ''An air carrier shall not receive . . . unless'' for clarity. The words ''approved by the Secretary'' are substituted for ''complies with regulations or orders issued by the Secretary governing the filing and approval'' to eliminate unnecessary words. The words ''The policy or plan must be sufficient to pay . . . but not more than the amount of the policy or plan limits'' are substituted for ''in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts'' because of the restatement. The words ''for which such air carrier may become liable'' are omitted as unnecessary. The word ''individual'' is substituted for ''person'' because it is more precise. The word ''operation'' is substituted for ''operation or maintenance'' because it is inclusive.

§ 41742. Essential air service authorization

(a) IN GENERAL.—

(1) AUTHORIZATION.—Out of the amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration, the sum of $50,000,000 is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter for each fiscal year.

(2) ADDITIONAL FUNDS.—In addition to amounts authorized under paragraph (1), there

is authorized to be appropriated $77,000,000 for each fiscal year to carry out the essential air service program under this subchapter of which not more than $12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance.

(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.—In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program.

(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—Notwithstanding any other provision of law, moneys credited to the account established under section 45303(a) of this title, including the funds derived from fees imposed under the authority contained in section 45301(a) of this title, shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g)[1] of this title, any amounts from those fees that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 104–264, title II, § 278(c), Oct. 9, 1996, 110 Stat. 3249; Pub. L. 106–181, title II, § 209(a), Apr. 5, 2000, 114 Stat. 95; Pub. L. 108–176, title IV, § 404, Dec. 12, 2003, 117 Stat. 2543.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41742	49 App.:1389(m).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(m); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517; Nov. 5, 1990, Pub. L. 101–508, § 9113(b)(1), 104 Stat. 1388–363.

REFERENCES IN TEXT

Section 47114 of this title, referred to in subsec. (b), does not contain a subsec. (g).

AMENDMENTS

2003—Subsec. (a)(2). Pub. L. 108–176, § 404(1), substituted ''$77,000,000'' for ''$15,000,000'' and inserted ''of which not more than $12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance'' before period at end.

Subsec. (a)(3). Pub. L. 108–176, § 404(2), added par. (3).

Subsec. (c). Pub. L. 108–176, § 404(3), struck out heading and text of subsec. (c). Text read as follows: ''Notwithstanding subsections (a) and (b), in fiscal year 1997, amounts in excess of $75,000,000 that are collected in fees pursuant to section 45301(a)(1) of this title shall be available for the essential air service program under this subchapter, in addition to amounts specifically provided for in appropriations Acts.''

2000—Subsec. (a). Pub. L. 106–181 designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

1996—Pub. L. 104–264 amended section generally, substituting provisions relating to essential air service authorization for provisions stating that this subchapter was not effective after Sept. 30, 1998.

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–264 effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as a note under section 106 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

FINDINGS

Section 278(b) of Pub. L. 104–264 provided that: ''Congress finds that—

''(1) air service in rural areas is essential to a national and international transportation network;

''(2) the rural air service infrastructure supports the safe operation of all air travel;

''(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

''(4) rural air service has suffered since deregulation;

''(5) the essential air service program under the Department of Transportation—

''(A) provides essential airline access to rural and isolated rural communities throughout the Nation;

''(B) is necessary for the economic growth and development of rural communities;

''(C) is a critical component of the national and international transportation system of the United States; and

''(D) has endured serious funding cuts in recent years; and

''(6) a reliable source of funding must be established to maintain air service in rural areas and the essential air service program.''

§ 41743. Airports not receiving sufficient service

(a) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.—The Secretary of Transportation shall establish a program that meets the requirements of this section for improving air carrier service to airports not receiving sufficient air carrier service.

(b) APPLICATION REQUIRED.—In order to participate in the program established under subsection (a), a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including—

(1) an assessment of the need of the community or consortium for access, or improved ac-

[1] See References in Text note below.

cess, to the national air transportation system; and

(2) an analysis of the application of the criteria in subsection (c) to that community or consortium.

(c) CRITERIA FOR PARTICIPATION.—In selecting communities, or consortia of communities, for participation in the program established under subsection (a), the Secretary shall apply the following criteria:

(1) SIZE.—For calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport, and—

(A) had insufficient air carrier service; or

(B) had unreasonably high air fares.

(2) CHARACTERISTICS.—The airport presents characteristics, such as geographic diversity or unique circumstances, that will demonstrate the need for, and feasibility of, the program established under subsection (a).

(3) STATE LIMIT.—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.

(4) OVERALL LIMIT.—No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program. No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.

(5) PRIORITIES.—The Secretary shall give priority to communities or consortia of communities where—

(A) air fares are higher than the average air fares for all communities;

(B) the community or consortium will provide a portion of the cost of the activity to be assisted under the program from local sources other than airport revenues;

(C) the community or consortium has established, or will establish, a public-private partnership to facilitate air carrier service to the public;

(D) the assistance will provide material benefits to a broad segment of the travelling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited; and

(E) the assistance will be used in a timely fashion.

(d) TYPES OF ASSISTANCE.—The Secretary may use amounts made available under this section—

(1) to provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;

(2) to provide assistance to an underserved airport to obtain service to and from the underserved airport; and

(3) to provide assistance to an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

(e) AUTHORITY TO MAKE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may make agreements to provide assistance under this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $20,000,000 for fiscal year 2001, $27,500,000 for each of fiscal years 2002 and 2003, and $35,000,000 for each of fiscal years 2004 through 2008 to carry out this section. Such sums shall remain available until expended.

(f) ADDITIONAL ACTION.—Under the program established under subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports to facilitate joint-fare arrangements consistent with normal industry practice.

(g) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary shall designate an employee of the Department of Transportation—

(1) to function as a facilitator between small communities and air carriers;

(2) to carry out this section;

(3) to ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

(4) to work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

(5) to provide policy recommendations to the Secretary and Congress that will ensure that small communities have access to quality, affordable air transportation services.

(h) AIR SERVICE DEVELOPMENT ZONE.—The Secretary shall designate an airport in the program as an Air Service Development Zone and work with the community or consortium on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies.

(Added Pub. L. 106–181, title II, § 203(a), Apr. 5, 2000, 114 Stat. 92; amended Pub. L. 108–11, title II, § 2708, Apr. 16, 2003, 117 Stat. 601; Pub. L. 108–176, title II, § 225(b)(3), title IV, § 412, Dec. 12, 2003, 117 Stat. 2529, 2551.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176, § 412(1), (2), struck out ''PILOT'' before ''PROGRAM'' in heading and ''pilot'' before ''program'' in text.

Subsec. (c)(1). Pub. L. 108–176, § 225(b)(3)(A), struck out ''(as that term is defined in section 41731(a)(5))'' after ''small hub airport'' in introductory provisions.

Subsec. (c)(3). Pub. L. 108–176, § 412(3)(A), added par. (3) and struck out heading and text of former par. (3). Text read as follows: ''No more than four communities or consortia of communities, or a combination thereof, may be located in the same State.''

Subsec. (c)(4). Pub. L. 108–176, § 412(3)(B), inserted at end ''No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.''

Pub. L. 108–11 inserted before period at end ''in each year for which funds are appropriated for the program''.

Subsec. (c)(5)(E). Pub. L. 108–176, § 412(3)(C), added subpar. (E).

Subsec. (e)(2). Pub. L. 108–176, § 412(4), substituted ''fiscal year 2001,'' for ''fiscal year 2001 and'' and inserted '', and $35,000,000 for each of fiscal years 2004 through 2008'' after ''2003''.

Subsec. (f). Pub. L. 108–176, §§ 225(b)(3)(B), 412(5), struck out ''pilot'' after ''Under the'' and ''(as defined in section 41731(a)(3))'' after ''large hub airports''.

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

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41744. Preservation of basic essential air service at single carrier dominated hub airports

(a) IN GENERAL.—If the Secretary of Transportation determines that extraordinary circumstances jeopardize the reliable performance of essential air service under this subchapter from a subsidized essential air service community to and from an essential airport facility, the Secretary may require an air carrier that has more than 60 percent of the total annual enplanements at the essential airport facility to take action to enable another air carrier to provide reliable essential air service to that community. Actions required by the Secretary under this subsection may include interline agreements, ground services, subleasing of gates, and the provision of any other service or facility necessary for the performance of satisfactory essential air service to that community.

(b) ESSENTIAL AIRPORT FACILITY DEFINED.—In this section, the term ''essential airport facility'' means a large hub airport in the contiguous 48 States at which one air carrier has more than 60 percent of the total annual enplanements at that airport.

(Added Pub. L. 106–181, title II, § 204(a), Apr. 5, 2000, 114 Stat. 93; amended Pub. L. 108–176, title II, § 225(b)(4), Dec. 12, 2003, 117 Stat. 2529.)

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–176 struck out ''(as defined in section 41731)'' after ''large hub airport''.

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

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41745. Community and regional choice programs

(a) ALTERNATE ESSENTIAL AIR SERVICE PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

(2) ASSISTANCE TO ELIGIBLE PLACES.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place, may provide assistance directly to a unit of local government having jurisdiction over the eligible place or a State within the boundaries of which the eligible place is located.

(3) USE OF ASSISTANCE.—A unit of local government or State receiving assistance for an eligible place under the program may use the assistance for any of the following purposes:

(A) To provide assistance to air carriers that will use smaller equipment to provide the service and to consider increasing the frequency of service using such smaller equipment if the Secretary determines that passenger safety would not be compromised by the use of such smaller equipment and if the State or unit of local government waives the minimum service requirements under section 41732(b).

(B) To provide assistance to an air carrier to provide on-demand air taxi service to and from the eligible place.

(C) To provide assistance to a person to provide scheduled or on-demand surface transportation to and from the eligible place and an airport in another place.

(D) In combination with other units of local government in the same region, to provide transportation services to and from all the eligible places in that region at an airport or other transportation center that can serve all the eligible places in that region.

(E) To purchase aircraft to provide transportation to and from the eligible place or to purchase a fractional share in an aircraft to provide such transportation after the effective date of a rule the Secretary issues relating to fractional ownership.

(F) To pay for other transportation or related services that the Secretary may permit.

(b) COMMUNITY FLEXIBILITY PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a pilot program for not more than 10 eligible places or consortia of units of local government.

(2) ELECTION.—Under the program, the sponsor of an airport serving an eligible place may elect to forego any essential air service for which compensation is being provided under this subchapter for a 10-year period in exchange for a grant from the Secretary equal in value to twice the compensation paid to provide such service in the most recent 12-month period.

(3) GRANT.—Notwithstanding any other provision of law, the Secretary shall make a grant to each airport sponsor participating in the program for use on any project that—

(A) is eligible for assistance under chapter 471 and complies with the requirements of that chapter;

(B) is located on the airport property; or

(C) will improve airport facilities in a way that would make such facilities more usable for general aviation.

(c) FRACTIONALLY OWNED AIRCRAFT.—After the effective date of the rule referred to in subsection (a)(3)(E), only those operating rules that relate to an aircraft that is fractionally owned apply when an aircraft described in subsection (a)(3)(E) is used to provide transportation described in subsection (a)(3)(E).

(d) APPLICATIONS.—

(1) IN GENERAL.—An entity seeking to participate in a program under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

(2) REQUIRED INFORMATION.—At a minimum, the application shall include—

(A) a statement of the amount of compensation or assistance required; and

(B) a description of how the compensation or assistance will be used.

(e) PARTICIPATION REQUIREMENTS.—An eligible place for which compensation or assistance is provided under this section in a fiscal year shall not be eligible in that fiscal year for the essential air service that it would otherwise be entitled to under this subchapter.

(f) SUBSEQUENT PARTICIPATION.—A unit of local government participating in the program under this subsection (a) in a fiscal year shall not be prohibited from participating in the basic essential air service program under this subchapter in a subsequent fiscal year if such unit is otherwise eligible to participate in such program.

(g) FUNDING.—Amounts appropriated or otherwise made available to carry out the essential air service program under this subchapter shall be available to carry out this section.

(Added Pub. L. 108–176, title IV, § 405, Dec. 12, 2003, 117 Stat. 2544.)

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

§ 41746. Tracking service

The Secretary of Transportation shall require a carrier that provides essential air service to an eligible place and that receives compensation for such service under this subchapter to report not less than semiannually—

(1) the percentage of flights to and from the place that arrive on time as defined by the Secretary; and

(2) such other information as the Secretary considers necessary to evaluate service provided to passengers traveling to and from such place.

(Added Pub. L. 108–176, title IV, § 407, Dec. 12, 2003, 117 Stat. 2545.)

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

§ 41747. EAS local participation program

(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which not more than 10 designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air service subsidy costs for a 4-year period.

(b) DESIGNATION OF COMMUNITIES.—

(1) IN GENERAL.—The Secretary may not designate any community under this section unless it is located within 100 miles by road of a hub airport and is not located in a noncontiguous State. In making the designation, the Secretary may take into consideration the total traveltime between a community and the nearest hub airport, taking into account terrain, traffic, weather, road conditions, and other relevant factors.

(2) ONE COMMUNITY PER STATE.—The Secretary may not designate—

(A) more than 1 community per State under this section; or

(B) a community in a State in which another community that is eligible to participate in the essential air service program has elected not to participate in the essential air service program as part of a pilot program under section 41745.

(c) APPEAL OF DESIGNATION.—A community may appeal its designation under this section. The Secretary may withdraw the designation of a community under this section based on—

(1) the airport sponsor's ability to pay; or

(2) the relative lack of financial resources in a community, based on a comparison of the median income of the community with other communities in the State.

(d) NON-FEDERAL SHARE.—

(1) NON-FEDERAL AMOUNTS.—For purposes of this section, the non-Federal portion of the essential air service subsidy may be derived from contributions in kind, or through reduction in the amount of the essential air service subsidy through reduction of air carrier costs, increased ridership, prepurchase of tickets, or other means. The Secretary shall provide assistance to designated communities in identifying potential means of reducing the amount of the subsidy without adversely affecting air transportation service to the community.

(2) APPLICATION WITH OTHER MATCHING REQUIREMENTS.—This section shall apply to the Federal share of essential air service provided this subchapter, after the application of any other non-Federal share matching requirements imposed by law.

(e) ELIGIBILITY FOR OTHER PROGRAMS NOT AFFECTED.—Nothing in this section affects the eligibility of a community or consortium of com-

munities, an airport sponsor, or any other person to participate in any program authorized by this subchapter. A community designated under this section may participate in any program (including pilot programs) authorized by this subchapter for which it is otherwise eligible—

(1) without regard to any limitation on the number of communities that may participate in that program; and

(2) without reducing the number of other communities that may participate in that program.

(f) SECRETARY TO REPORT TO CONGRESS ON IMPACT.—The Secretary shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on—

(1) the economic condition of communities designated under this section before their designation;

(2) the impact of designation under this section on such communities at the end of each of the 3 years following their designation; and

(3) the impact of designation on air traffic patterns affecting air transportation to and from communities designated under this section.

(Added Pub. L. 108–176, title IV, § 408(a), Dec. 12, 2003, 117 Stat. 2546.)

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

§ 41748. Marketing program

(a) IN GENERAL.—The Secretary of Transportation shall establish a marketing incentive program for eligible places that receive subsidized service by an air carrier under section 41733. Under the program, the sponsor of the airport serving such an eligible place may receive a grant of not more than $50,000 in a fiscal year to develop and implement a marketing plan to increase passenger boardings and the level of passenger usage of its airport facilities.

(b) MATCHING REQUIREMENT; SUCCESS BONUSES—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), not less than 25 percent of the publicly financed costs associated with a marketing plan to be developed and implemented under this section shall come from non-Federal sources. For purposes of this section—

(A) the non-Federal portion of the publicly financed costs may be derived from contributions in kind; and

(B) matching contributions from a State or unit of local government may not be derived, directly or indirectly, from Federal funds, but the use by the State or unit of local government of proceeds from the sale of bonds to provide the matching contribution is not considered to be a contribution derived directly or indirectly from Federal funds, without regard to the Federal income tax treatment of interest paid on those bonds or the Federal income tax treatment of those bonds.

(2) BONUS FOR 25-PERCENT INCREASE IN USAGE.—Except as provided in paragraph (3), if, after any 12-month period during which a marketing plan has been in effect under this section with respect to an eligible place, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport serving the eligible place, by 25 percent or more, then only 10 percent of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources under this subsection for the following 12-month period.

(3) BONUS FOR 50-PERCENT INCREASE IN USAGE.—If, after any 12-month period during which a marketing plan has been in effect under this section with respect to an eligible place, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport serving the eligible place, by 50 percent or more, then no portion of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources under this subsection for the following 12-month period.

(Added Pub. L. 108–176, title IV, § 410(b), Dec. 12, 2003, 117 Stat. 2548.)

CODIFICATION

Another section 410(b) of Pub. L. 108–176 amended the table of sections at the beginning of this chapter.

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

INCENTIVE PROGRAM

Pub. L. 108–176, title IV, § 410(a), Dec. 12, 2003, 117 Stat. 2548, provided that: ''The purposes of this section [enacting this section] are—

''(1) to enable essential air service communities to increase boardings and the level of passenger usage of airport facilities at an eligible place by providing technical, financial, and other marketing assistance to such communities and to States;

''(2) to reduce subsidy costs under subchapter II of this chapter [probably means chapter 417 of title 49, United States Code] as a consequence of such increased usage; and

''(3) to provide such communities with opportunities to obtain, retain, and improve transportation services.''

SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM

§ 41761. Purpose

The purpose of this subchapter is to improve service by jet aircraft to underserved markets by providing assistance, in the form of Federal credit instruments, to commuter air carriers that purchase regional jet aircraft for use in serving those markets.

(Added Pub. L. 106–181, title II, § 210(a), Apr. 5, 2000, 114 Stat. 96.)

EFFECTIVE DATE

Subchapter applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41762. Definitions

In this subchapter, the following definitions apply:

(1) AIR CARRIER.—The term ''air carrier'' means any air carrier holding a certificate of public convenience and necessity issued by the Secretary of Transportation under section 41102.

(2) AIRCRAFT PURCHASE.—The term ''aircraft purchase'' means the purchase of commercial transport aircraft, including spare parts normally associated with the aircraft.

(3) CAPITAL RESERVE SUBSIDY AMOUNT.—The term ''capital reserve subsidy amount'' means the amount of budget authority sufficient to cover estimated long-term cost to the United States Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on Government receipts or outlays in accordance with provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(4) COMMUTER AIR CARRIER.—The term ''commuter air carrier'' means an air carrier that primarily operates aircraft designed to have a maximum passenger seating capacity of 75 or less in accordance with published flight schedules.

(5) FEDERAL CREDIT INSTRUMENT.—The term ''Federal credit instrument'' means a secured loan, loan guarantee, or line of credit authorized to be made under this subchapter.

(6) FINANCIAL OBLIGATION.—The term ''financial obligation'' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of an aircraft purchase, other than a Federal credit instrument.

(7) LENDER.—The term ''lender'' means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation) known as Rule 144A(a) of the Security and Exchange Commission and issued under the Security Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(8) LINE OF CREDIT.—The term ''line of credit'' means an agreement entered into by the Secretary with an obligor under section 41763(d) to provide a direct loan at a future date upon the occurrence of certain events.

(9) LOAN GUARANTEE.—The term ''loan guarantee'' means any guarantee or other pledge by the Secretary under section 41763(c) to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(10) NEW ENTRANT AIR CARRIER.—The term ''new entrant air carrier'' means an air carrier that has been providing air transportation according to a published schedule for less than 5 years, including any person that has received authority from the Secretary to provide air transportation but is not providing air transportation.

(11) OBLIGOR.—The term ''obligor'' means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(12) REGIONAL JET AIRCRAFT.—The term ''regional jet aircraft'' means a civil aircraft—

(A) powered by jet propulsion; and

(B) designed to have a maximum passenger seating capacity of not less than 30 nor more than 75.

(13) SECURED LOAN.—The term ''secured loan'' means a direct loan funded by the Secretary in connection with the financing of an aircraft purchase under section 41763(b).

(14) UNDERSERVED MARKET.—The term ''underserved market'' means a passenger air transportation market (as defined by the Secretary) that—

(A) is served (as determined by the Secretary) by a nonhub airport or a small hub airport;

(B) is not within a 40-mile radius of an airport that each year has at least .25 percent of the total annual boardings in the United States; and

(C) the Secretary determines does not have sufficient air service.

(Added Pub. L. 106–181, title II, § 210(a), Apr. 5, 2000, 114 Stat. 96; amended Pub. L. 108–176, title II, § 225(b)(5), Dec. 12, 2003, 117 Stat. 2529.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in par. (3), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–609, as amended, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

The Security Act of 1933, referred to in par. (7), probably means the Securities Act of 1933, title I of act May 27, 1933, ch. 38, 48 Stat. 74, as amended, which is classified generally to subchapter I (§ 77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

Sections 414(d) and 4974(c) of the Internal Revenue Code of 1986, referred to in par. (7), are classified to sections 414(d) and 4974(c), respectively, of Title 26, Internal Revenue Code.

AMENDMENTS

2003—Pars. (11) to (16). Pub. L. 108–176 redesignated pars. (12), (13), (14), and (16) as (11), (12), (13), and (14), respectively, and struck out former pars. (11) and (15), which defined ''nonhub airport'' and ''small hub airport'', respectively.

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.

§ 41763. Federal credit instruments

(a) IN GENERAL.—Subject to this section and section 41766, the Secretary of Transportation may enter into agreements with one or more obligors to make available Federal credit instruments, the proceeds of which shall be used to finance aircraft purchases.

(b) SECURED LOANS.—

(1) TERMS AND LIMITATIONS.—

(A) IN GENERAL.—A secured loan under this section with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(B) MAXIMUM AMOUNT.—No secured loan may be made under this section—

(i) that extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased; or

(ii) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than $100,000,000 of outstanding credit to any single obligor.

(C) FINAL PAYMENT DATE.—The final payment on the secured loan shall not be due later than 18 years after the date of execution of the loan agreement.

(D) SUBORDINATION.—The secured loan may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined appropriate by the Secretary.

(E) FEES.—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all or a portion of the administrative costs to the United States Government of making a secured loan under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

(2) REPAYMENT.—

(A) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from aircraft revenues and other repayment sources.

(B) COMMENCEMENT.—Scheduled loan repayments of principal and interest on a secured loan under this section shall commence no later than 3 years after the date of execution of the loan agreement.

(3) PREPAYMENT.—

(A) USE OF EXCESS REVENUE.—After satisfying scheduled debt service requirements on all financial obligations and secured loans and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing financial obligations, the secured loan may be prepaid at anytime without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from proceeds of refinancing from non-Federal funding sources.

(c) LOAN GUARANTEES.—

(1) IN GENERAL.—A loan guarantee under this section with respect to a loan made for an aircraft purchase shall be made in such form and on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—No loan guarantee shall be made under this section—

(A) that extends to more than the unpaid interest and 50 percent of the unpaid principal on any loan;

(B) that, for any loan or combination of loans, extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased with the loan or loan combination;

(C) on any loan with respect to which terms permit repayment more than 15 years after the date of execution of the loan; or

(D) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than $100,000,000 of outstanding credit to any single obligor.

(3) FEES.—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all or a portion of the administrative costs to the United States Government of making a loan guarantee under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

(d) LINES OF CREDIT.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary may enter into agreements to make available lines of credit to one or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any aircraft purchase selected under this section.

(2) TERMS AND LIMITATIONS.—

(A) IN GENERAL.—A line of credit under this subsection with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(B) MAXIMUM AMOUNT.—

(i) TOTAL AMOUNT.—The amount of any line of credit shall not exceed 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts.

(ii) 1–YEAR DRAWS.—The amount drawn in any year shall not exceed 20 percent of the total amount of the line of credit.

(C) DRAWS.—Any draw on the line of credit shall represent a direct loan.

(D) PERIOD OF AVAILABILITY.—The line of credit shall be available not more than 5 years after the aircraft purchase date.

(E) RIGHTS OF THIRD-PARTY CREDITORS.—

(i) AGAINST UNITED STATES GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the United States Government with respect to any draw on the line of credit.

(ii) ASSIGNMENT.—An obligor may assign the line of credit to one or more lenders or to a trustee on the lender's behalf.

(F) SUBORDINATION.—A direct loan under this subsection may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined appropriate by the Secretary.

(G) FEES.—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all of a portion of the administrative costs to the United States Government of providing a line of credit under this subsection. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

(3) REPAYMENT.—

(A) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this subsection.

(B) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a direct loan under this subsection shall commence no later than 3 years after the date of the first draw on the line of credit and shall be repaid, with interest, not later than 18 years after the date of the first draw.

(e) RISK ASSESSMENT.—Before entering into an agreement under this section to make available a Federal credit instrument, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for the Federal credit instrument based on such credit evaluations as the Secretary deems necessary.

(f) CONDITIONS.—Subject to subsection (h), the Secretary may only make a Federal credit instrument available under this section if the Secretary finds that—

(1) the aircraft to be purchased with the Federal credit instrument is a regional jet aircraft needed to improve the service and efficiency of operation of a commuter air carrier or new entrant air carrier;

(2) the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to use the aircraft to provide service to underserved markets; and

(3) the prospective earning power of the commuter air carrier or new entrant air carrier, together with the character and value of the security pledged, including the collateral value of the aircraft being acquired and any other assets or pledges used to secure the Federal credit instrument, furnish—

(A) reasonable assurances of the air carrier's ability and intention to repay the Federal credit instrument within the terms established by the Secretary—

(i) to continue its operations as an air carrier; and

(ii) to the extent that the Secretary determines to be necessary, to continue its operations as an air carrier between the same route or routes being operated by the air carrier at the time of the issuance of the Federal credit instrument; and

(B) reasonable protection to the United States.

(g) LIMITATION ON COMBINED AMOUNT OF FEDERAL CREDIT INSTRUMENTS.—The Secretary shall not allow the combined amount of Federal credit instruments available for any aircraft purchase under this section to exceed—

(1) 50 percent of the cost of the aircraft purchase; or

(2) $100,000,000 for any single obligor.

(h) REQUIREMENT.—Subject to subsection (i), no Federal credit instrument may be made under this section for the purchase of any regional jet aircraft that does not comply with the stage 3 noise levels of part 36 of title 14 of the Code of Federal Regulations, as in effect on January 1, 1999.

(i) OTHER LIMITATIONS.—No Federal credit instrument shall be made by the Secretary under this section for the purchase of a regional jet aircraft unless the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to provide scheduled passenger air transportation to the underserved market for which the aircraft is purchased for a period of not less than 36 consecutive months after the date that aircraft is placed in service.

(Added Pub. L. 106–181, title II, § 210(a), Apr. 5, 2000, 114 Stat. 97.)

§ 41764. Use of Federal facilities and assistance

(a) USE OF FEDERAL FACILITIES.—To permit the Secretary of Transportation to make use of such expert advice and services as the Secretary may require in carrying out this subchapter, the Secretary may use available services and facilities of other agencies and instrumentalities of the United States Government—

(1) with the consent of the appropriate Federal officials; and

(2) on a reimbursable basis.

(b) ASSISTANCE.—The head of each appropriate department or agency of the United States Government shall exercise the duties and powers of that head in such manner as to assist in carrying out the policy specified in section 41761.

(c) OVERSIGHT.—The Secretary shall make available to the Comptroller General of the United States such information with respect to any Federal credit instrument made under this subchapter as the Comptroller General may require to carry out the duties of the Comptroller General under chapter 7 of title 31, United States Code.

(Added Pub. L. 106–181, title II, § 210(a), Apr. 5, 2000, 114 Stat. 101.)

§ 41765. Administrative expenses

In carrying out this subchapter, the Secretary shall use funds made available by appropriations to the Department of Transportation for the purpose of administration, in addition to the proceeds of any fees collected under this subchapter, to cover administrative expenses of the Federal credit instrument program under this subchapter.

(Added Pub. L. 106–181, title II, § 210(a), Apr. 5, 2000, 114 Stat. 101.)

§ 41766. Funding

Of the amounts appropriated under section 106(k) for each of fiscal years 2001 through 2003, such sums as may be necessary may be used to carry out this subchapter, including administrative expenses.

(Added Pub. L. 106–181, title II, § 210(a), Apr. 5, 2000, 114 Stat. 101.)

§ 41767. Termination

(a) AUTHORITY TO ISSUE FEDERAL CREDIT INSTRUMENTS.—The authority of the Secretary of Transportation to issue Federal credit instruments under section 41763 shall terminate on the date that is 5 years after the date of the enactment of this subchapter.

(b) CONTINUATION OF AUTHORITY TO ADMINISTER PROGRAM FOR EXISTING FEDERAL CREDIT INSTRUMENTS.—On and after the termination date, the Secretary shall continue to administer the program established under this subchapter for Federal credit instruments issued under this subchapter before the termination date until all obligations associated with such instruments have been satisfied.

(Added Pub. L. 106–181, title II, § 210(a), Apr. 5, 2000, 114 Stat. 101.)

REFERENCES IN TEXT

The date of the enactment of this subchapter, referred to in subsec. (a), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

CHAPTER 419—TRANSPORTATION OF MAIL

Sec.
41901. General authority.
41902. Schedules for certain transportation of mail.
41903. Duty to provide certain transportation of mail.
41904. Noncitizens transporting mail to or in foreign countries.
41905. Regulating air carrier transportation of foreign mail.
41906. Emergency mail transportation.
41907. Prices for foreign transportation of mail.
41908. Prices for transporting mail of foreign countries.
41909. Duty to oppose unreasonable prices under the Universal Postal Union Convention.
41910. Weighing mail.
41911. Evidence of providing mail service.
41912. Effect on foreign postal arrangements.

§ 41901. General authority

(a) TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in interstate air transportation under section 5402(e) and (f) of title 39.

(b) AUTHORITY TO PRESCRIBE PRICES.—Except as provided in section 5402 of title 39, on the initiative of the Secretary of Transportation or on petition by the Postal Service or an air carrier, the Secretary shall prescribe and publish—

(1) after notice and an opportunity for a hearing on the record, reasonable prices to be paid by the Postal Service for the transportation of mail by aircraft in foreign air transportation or between places in Alaska, the facilities used in and useful for the transportation of mail, and the services related to the transportation of mail for each carrier holding a certificate that authorizes that transportation;

(2) the methods used, whether by aircraft-mile, pound-mile, weight, space, or a combination of those or other methods, to determine the prices for each air carrier or class of air carriers; and

(3) the effective date of the prices.

(c) OTHER TRANSPORTATION.—In prescribing prices under subsection (b) of this section, the Secretary may include transportation other than by aircraft that is incidental to transportation of mail by aircraft or necessary because of emergency conditions related to aircraft operations.

(d) AUTHORITY TO PRESCRIBE DIFFERENT PRICES.—Considering conditions peculiar to transportation by aircraft and to particular air carriers or classes of air carriers, the Secretary may prescribe different prices under this section for different air carriers or classes of air carriers and for different classes of service. In prescribing a price for a carrier under this section, the Secretary shall consider, among other factors, the following:

(1) the condition that the carrier may hold and operate under a certificate authorizing the transportation of mail only by providing necessary and adequate facilities and service for the transportation of mail.

(2) standards related to the character and quality of service to be provided that are prescribed by or under law.

(e) STATEMENTS ON PRICES.—A petition for prescribing a reasonable price under this section must include a statement of the price the petitioner believes is reasonable.

(f) STATEMENTS ON REQUIRED SERVICES.—The Postal Service shall introduce as part of the record in every proceeding under this section a comprehensive statement of the services to be required of the air carrier and other information the Postal Service has that the Secretary considers material to the proceeding.

(Pub. L. 103–272, §§ 1(e), 4(k)(1), (2), July 5, 1994, 108 Stat. 1153, 1370; Pub. L. 104–52, title VI, § 631(c), Nov. 19, 1995, 109 Stat. 505; Pub. L. 106–31, title VI, § 6003, May 21, 1999, 113 Stat. 113; Pub. L. 107–206, title III, § 3002(e)(2), Aug. 2, 2002, 116 Stat. 924.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272, §1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41901(a)	49 App.:1376(a) (1st sentence related to non-Alaska interstate and overseas air transportation less words between parentheses).	Aug. 23, 1958, Pub. L. 85–726, §406(a), 72 Stat. 763; Nov. 9, 1977, Pub. L. 95–163, §13, 91 Stat. 1282.
	49 App.:1551(b)(1)(D).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(D); added Oct. 4, 1984, Pub. L. 95–504, §40(a), 92 Stat. 1745; Oct. 4, 1984, Pub. L. 98–443, §3(d), 98 Stat. 1704.
41901(b)	49 App.:1376(a) (1st sentence related to foreign and Alaska air transportation less words between parentheses, 2d, last sentences).	
	49 App.:1376(c).	Aug. 23, 1958, Pub. L. 85–726, §406(c), 72 Stat. 764; Oct. 24, 1978, Pub. L. 95–504, §24(b), 92 Stat. 1725.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41901(c)	49 App.:1376(a) (1st sentence words between parentheses).	
41901(d)	49 App.:1376(b).	Aug. 23, 1958, Pub. L. 85–726, §406(b), 72 Stat. 763; July 10, 1962, Pub. L. 87–528, §5, 76 Stat. 145; Oct. 15, 1966, Pub. L. 89–670, §8(a), 80 Stat. 942; Nov. 9, 1977, Pub. L. 95–163, §12(a), 91 Stat. 1282; Oct. 24, 1978, Pub. L. 95–504, §§24(a), 25(a), 92 Stat. 1725.
	49 App.:1376(d).	Aug. 23, 1958, Pub. L. 85–726, §406(d), (e), 72 Stat. 764.
	49 App.:1551(b)(1)(D), (E).	
41901(e)	49 App.:1376(e) (1st sentence).	
41901(f)	49 App.:1376(e) (last sentence).	
	49 App.:1551(b)(1)(D), (E).	
41901(g)	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1553(c).	Oct. 4, 1984, Pub. L. 98–443, §4(c), 98 Stat. 1705; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §4(c) of Civil Aeronautics Board Sunset Act of 1984), 102 Stat. 2155.

In this section, the word ''prescribe'' is substituted for ''fix and determine'' and ''fixing and determining'' for consistency in the revised title and with other titles of the United States Code. The word ''reasonable'' is substituted for ''fair and reasonable'' for consistency in the revised title and to eliminate an unnecessary word. See the revision notes following 49:10101.

Subsection (a) is substituted for 49 App.:1551(b)(1)(D) to make clear that the United States Postal Service derives its authority to provide for the transportation of mail by aircraft in interstate transportation from 39:5402(d) and (f). The text of 49 App.:1376(a) (1st sentence related to non-Alaska interstate and overseas air transportation less words between parentheses) is omitted as superseded by 39:5402(d).

In subsection (b), before clause (1), the words ''Except as provided in section 5402 of title 39'' are added for clarity. The words ''from time to time'' in 49 App.:1376(a) are omitted as surplus. The text of 49 App.:1376(a) (2d, last sentences) is omitted as executed. In clauses (1) and (2), the word ''prices'' is substituted for ''rates of compensation'' for consistency in this part. In clause (1), the words ''an opportunity for a hearing on the record'' are substituted for ''hearing'' for clarity and consistency with subsection (f) of this section. The words ''to be paid by the Postal Service'' are substituted for ''The United States Postal Service shall make payments . . . of so much of the total compensation as is fixed and determined by the Board under this section without regard to clause (3) of subsection (b) of this section'' in 49 App.:1376(c) to eliminate unnecessary words because the text of 49 App.:1376(b) (2d sentence words after 2d semicolon) is being omitted. See the revision notes for subsection (d) of this section. The words ''out of appropriations for the transportation of mail by aircraft'' are omitted as being superseded by chapters 20 and 24 of title 39, United States Code. The text of 49 App.:1376(c) (2d sentence) is omitted as expired because of 49 App.:1376(c) (last sentence). The text of 49 App.:1376(c) (last sentence) is omitted as executed. The words ''and to make such rates effective from such date as it shall determine to be proper'' in 49 App.:1376(a) are omitted because the power to determine when rates go into effect is included in the power to prescribe rates. The words ''transportation of mail by aircraft in foreign air transportation or between places in Alaska'' are substituted for ''transportation of mail by aircraft'' because 49 App.:1551(b)(1)(D) and (E) provides that transportation of mail in interstate or overseas air transportation (except transportation of mail between 2 places in Alaska) is transferred to the jurisdiction of the United States Postal Service leaving the balance of authority under 49 App.:1376(a) with the Secretary of Transportation.

In subsections (c), (d), and (f), reference to service provided by the Postal Service is omitted as obsolete because of 39:5402(d).

In subsection (c), the words ''In prescribing prices under subsection (b) of this section, the Secretary'' are added for clarity.

In subsection (d), the text of 49 App.:1376(b) (2d sentence words after 2d semicolon, 5th–7th sentences) and (d) is omitted as obsolete because under 49 App.:1376(c) and 1376a, payments by the Board under 49 App.:1376 were terminated. The text of 49 App.:1376(b) (3d, 4th sentences) is omitted as obsolete because it applies only to rates paid for service performed between October 24, 1978, and January 1, 1983. The text of 49 App.:1376(b) (last sentence) is omitted as executed.

Subsection (g) is substituted for 49 App.:1551(b)(3) and 1553(c) because the date on which the authority of the Secretary of Transportation to provide for the transportation of mail by aircraft expires is set out in 39:5402(f). The source provisions of 49 App.:1551(b)(3) providing for the transfer of that authority from the Secretary to the Postal Service are restated in section 5(k) of this bill.

PUB. L. 103–272, §4(k)(1), (2)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41901(b)(1), (g).	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act

of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–206 substituted ''5402(e)'' for ''5402(d)''.

1999—Subsecs. (b)(1), (g). Pub. L. 106–31 repealed Pub. L. 103–272, § 4(k). See 1994 Amendment notes below.

1995—Subsec. (g). Pub. L. 104–52 struck out subsec. (g) which read as follows: ''EXPIRATION DATE.—The authority of the Secretary under this part and section 5402 of title 39 providing for the transportation of mail by aircraft between places in Alaska expires on the date specified in section 5402(f) of title 39.''

1994—Subsec. (b)(1). Pub. L. 103–272, § 4(k)(1), which directed the amendment of this section by substituting ''foreign air transportation,'' for ''foreign air transportation or between places in Alaska,'', effective Jan. 1, 1999, was repealed by Pub. L. 106–31, § 6003, effective Dec. 31, 1998.

Subsec. (g). Pub. L. 103–272, § 4(k)(2), which directed the amendment of this section by striking out subsec. (g), effective Jan. 1, 1999, was repealed by Pub. L. 106–31, § 6003, effective Dec. 31, 1998.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–31, title VI, § 6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

§ 41902. Schedules for certain transportation of mail

(a) REQUIREMENT.—Except as provided in section 41906 of this title and section 5402 of title 39, an air carrier may transport mail by aircraft in foreign air transportation or between places in Alaska only under a schedule designated or required to be established under subsection (c) of this section for the transportation of mail.

(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

(1) the places between which the carrier is authorized to provide foreign air transportation;

(2) the places between which the carrier is authorized to transport mail in Alaska;

(3) every schedule of aircraft regularly operated by the carrier between places described in clauses (1) and (2) of this subsection and every change in each schedule; and

(4) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each place.

(c) DESIGNATING AND ADDITIONAL SCHEDULES.—The Postal Service may—

(1) designate any schedule of an air carrier filed under subsection (b)(3) of this section for the transportation of mail between the places between which the carrier is authorized by its certificate to transport mail; and

(2) require the carrier to establish additional schedules for the transportation of mail between those places.

(d) CHANGING SCHEDULES.—A schedule designated or required to be established for the transportation of mail under subsection (c) of this section may be changed only after 10 days' notice of the change is filed as provided in subsection (b)(3) of this section. The Postal Service may disapprove a proposed change in a schedule or amend or modify the schedule or proposed change.

(e) ORDERS.—An order of the Postal Service under this section may become effective only after 10 days after the order is issued. A person adversely affected by the order may appeal the order to the Secretary before the end of the 10-day period under regulations the Secretary prescribes. If the public convenience and necessity require, the Secretary may amend, modify, suspend, or cancel the order. Pending a decision about the order, the Secretary may postpone the effective date of the order.

(f) PROCEEDINGS PREFERENCES.—The Secretary shall give preference to a proceeding under this section over all other proceedings before the Secretary under this subpart.

(Pub. L. 103–272, §§ 1(e), 4(k)(1), (3), July 5, 1994, 108 Stat. 1153, 1370; Pub. L. 103–429, § 7(a)(3)(D), Oct. 31, 1994, 108 Stat. 4389; Pub. L. 106–31, title VI, § 6003, May 21, 1999, 113 Stat. 113.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, § 1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41902(a)	49 App.:1375(b) (last sentence). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)).	Aug. 23, 1958, Pub. L. 85–726, § 405(b), 72 Stat. 760. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(A) (related to § 405(b)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.
41902(b)	49 App.:1375(b) (1st sentence). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	
41902(c)	49 App.:1375(b) (2d sentence).	
41902(d)	49 App.:1375(b) (3d, 4th sentences).	
41902(e)	49 App.:1375(b) (5th–7th sentences). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	
41902(f)	49 App.:1375(b) (8th sentence). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	

In this chapter, the word ''places'' is substituted for ''points'' for consistency in the revised title. The words ''United States Postal Service'' and ''Postal Service'' are substituted for ''Postmaster General'' in sections 401, 405, and 406 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 754, 760) because of sections 4(a) and 6(o) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773, 783).

In subsection (a), the words ''Except as provided in section 41906 of this title and section 5402 of title 39'' are added because section 41906 of the revised title and 39:5402 contain exceptions to the provisions restated in this subsection. The words ''transport mail by aircraft in foreign air transportation or between places in Alaska'' are substituted for ''transport mail'' because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(b) no longer applies to interstate or overseas air transportation (ex-

cept transportation of mail between 2 places in Alaska).

In subsection (b), before clause (1), the words ''from time to time'' are omitted as surplus. Clauses (1) and (2) are substituted for ''to engage in air transportation'' because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(b) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). In clause (4), the words ''between places described in clauses (1) and (2) of this subsection and every change in each schedule'' are substituted for ''between such points'' for clarity.

In subsection (c)(1), the words ''any schedule of an air carrier filed under subsection (b)(3) of this section'' are substituted for ''any such schedule'' for clarity.

In subsection (c)(2), the words ''by order'' are omitted as surplus.

In subsection (d), the word ''alter'' is omitted as being included in ''amend, or modify''.

In subsection (e), the words ''adversely affected'' are substituted for ''aggrieved'' for consistency in the revised title. The words ''appeal the order'' are substituted for ''apply . . . for a review of such order'' for consistency in the revised title and with other titles of the United States Code. The words ''The Board may review, and'' are omitted as surplus. The words ''amend, modify'' are substituted for ''amend, revise'' for consistency in the revised title.

Subsection (f) is substituted for 49 App.:1375(b) (8th sentence) to reflect the transfer of functions of the Civil Aeronautics Board to the Secretary of Transportation.

PUB. L. 103–272, § 4(k)(1), (3)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41902(a), (b)	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, § 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

AMENDMENTS

1999—Subsecs. (a), (b)(2) to (4). Pub. L. 106–31 repealed Pub. L. 103–272, § 4(k). See 1994 Amendment notes below.

1994—Subsec. (a). Pub. L. 103–272, § 4(k)(1), which directed the amendment of this section by substituting ''foreign air transportation'' for ''foreign air transportation or between places in Alaska'', effective Jan. 1, 1999, was repealed by Pub. L. 106–31, § 6003, effective Dec. 31, 1998.

Subsec. (b)(2) to (4). Pub. L. 103–272, § 4(k)(3), as amended by Pub. L. 103–429, which directed the amendment of subsec. (b) by redesignating par. (3) as (2) and substituting ''clause (1)'' for ''clauses (1) and (2)'', striking out former par. (2) which read as follows: ''the places between which the carrier is authorized to transport mail in Alaska;'', and redesignating par. (4) as (3), effective Jan. 1, 1999, was repealed by Pub. L. 106–31, § 6003, effective Dec. 31, 1998.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–31, title VI, § 6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 7(a) of Pub. L. 103–429 provided in part that the amendment made by that section is effective July 5, 1994.

§ 41903. Duty to provide certain transportation of mail

(a) AIR CARRIERS.—Subject to subsection (b) of this section, an air carrier authorized by its certificate to transport mail by aircraft in foreign air transportation or between places in Alaska shall—

(1) provide facilities and services necessary and adequate to provide that transportation; and

(2) transport mail between the places authorized in the certificate for transportation of mail when required, and under regulations prescribed, by the United States Postal Service.

(b) MAXIMUM MAIL LOAD.—The Secretary of Transportation may prescribe the maximum mail load for a schedule or for an aircraft or type of aircraft for the transportation of mail by aircraft in foreign air transportation or between places in Alaska. If the Postal Service tenders to an air carrier mail exceeding the maximum load for transportation by the carrier under a schedule designated or required to be established for the transportation of mail under section 41902(c) of this title, the carrier, as nearly in accordance with the schedule as the Secretary decides is possible, shall—

(1) provide facilities sufficient to transport the mail to the extent the Secretary decides the carrier reasonably is able to do so; and

(2) transport that mail.

(Pub. L. 103–272, §§ 1(e), 4(k)(1), July 5, 1994, 108 Stat. 1154, 1370; Pub. L. 106–31, title VI, § 6003, May 21, 1999, 113 Stat. 113.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, § 1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41903(a)	49 App.:1371(*l*).	Aug. 23, 1958, Pub. L. 85–726, §§ 401(*l*), 405(c), (d), 72 Stat. 757, 761.
	49 App.:1375(d).	
	49 App.:1551(a)(4)(A) (related to 49 App.:1371(*l*), 1375(d)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(A) (related to §§ 401(*l*), 405(c), (d)); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1703.
41903(b)	49 App.:1375(c).	
	49 App.:1551(a)(4)(A) (related to 49 App.:1375(c)).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the words ''Subject to subsection (b) of this section'' are added for clarity because subsection (b) limits the effect of this section. The words ''transport mail by aircraft in foreign air transportation or between places in Alaska'' are substituted for ''the transportation of mail'' in 49 App.:1371(*l*) and ''the transportation of mail by aircraft'' in 49 App.:1375(d) because 49 App.:1551(a)(4)(A) provides that 49 App.:1371(*l*) and 1375(d) no longer apply to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). Clause (2) is substituted for ''shall transport mail whenever required by the United States Postal Service'' in 49 App.:1371(*l*) and the text of 49 App.:1375(d) for clarity and to eliminate unnecessary words. The text of 49 App.:1371(*l*) (last sentence) is omitted as surplus because section 41901 of the revised title specifies how the rates of compensation are determined.

In subsection (b), before clause (1), the words ''transportation of mail by aircraft in foreign air transportation or between places in Alaska'' are added because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(c) no longer applies to interstate or overseas air transportation of mail (except transportation of mail between 2 places in Alaska).

PUB. L. 103–272, § 4(k)(1)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41903	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, § 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

AMENDMENTS

1999—Pub. L. 106–31 repealed Pub. L. 103–272, § 4(k). See 1994 Amendment note below.

1994—Pub. L. 103–272, § 4(k)(1), which directed the amendment of this section by substituting ''foreign air transportation'' for ''foreign air transportation or between places in Alaska'' in introductory provisions of subsecs. (a) and (b), effective Jan. 1, 1999, was repealed by Pub. L. 106–31, § 6003, effective Dec. 31, 1998.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–31, title VI, § 6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

§ 41904. Noncitizens transporting mail to or in foreign countries

When the United States Postal Service decides that it may be necessary to have a person not a citizen of the United States transport mail by aircraft to or in a foreign country, the Postal Service may make an arrangement with the person, without advertising, to provide the transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41904	49 App.:1375(e)(2).	Aug. 23, 1958, Pub. L. 85–726, § 405(e)(2), 72 Stat. 761.

The words ''who may not be obligated to transport the mail for a foreign country'' are omitted for simplicity and clarity because the omitted words impose no requirement or qualification that is meaningful.

§ 41905. Regulating air carrier transportation of foreign mail

An air carrier holding a certificate that authorizes foreign air transportation and transporting mail of a foreign country shall transport that mail under the control of, and subject to regulation by, the United States Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41905	49 App.:1375(f)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 405(f)(1) (1st sentence), 72 Stat. 761.

§ 41906. Emergency mail transportation

(a) CONTRACT AUTHORITY.—In an emergency caused by a flood, fire, or other disaster, the United States Postal Service may make a contract without advertising to transport mail by aircraft to or from a locality affected by the emergency when the available facilities of persons authorized to transport mail to or from the locality are inadequate to meet the requirements of the Postal Service during the emergency. The contract may be only for periods necessary to maintain mail service because of the inadequacy of the facilities. Payment for transportation provided under the contract shall be made at prices provided in the contract.

(b) TRANSPORTATION NOT AIR TRANSPORTATION.—Transportation provided under a contract made under subsection (a) of this section is not air transportation within the meaning of this part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41906(a)	49 App.:1375(h) (1st, 2d, last sentences).	Aug. 23, 1958, Pub. L. 85–726, § 405(h), 72 Stat. 762.
41906(b)	49 App.:1375(h) (3d sentence).	

In subsection (a), the word ''disaster'' is substituted for ''calamitous visitation'' for consistency in the revised title and with other titles of the United States Code. The words ''any or all classes of'' and ''of compensation'' are omitted as surplus. The words ''from appropriations for the transportation of mail by the means normally used for transporting the mail transported under such contracts'' are omitted as superseded by 39:chs. 20 and 24. The authority of the Postal Service under this section is in addition to the authority of the Postal Service under 39:5001.

In subsection (b), the words ''Transportation provided'' are substituted for ''operation'' for consistency in this chapter.

§ 41907. Prices for foreign transportation of mail

(a) LIMITATIONS.—When air transportation is provided between the United States and a foreign country both by aircraft owned or operated by an air carrier holding a certificate under chapter 411 of this title and by aircraft owned or operated by a foreign air carrier, the United States Postal Service may not pay to or for the account of the foreign air carrier a price for transporting mail by aircraft between the United States and the foreign country that the Postal Service believes will result (over a reasonable period determined by the Postal Service considering exchange fluctuations and other factors) in the foreign air carrier receiving a price for transporting the mail that is higher than the price—

(1) the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and the United States; or

(2) determined by the Postal Service to be comparable to the price the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and an intermediate country on the route of the air carrier between the foreign country and the United States.

(b) CHANGES.—The Secretary of Transportation shall act expeditiously on proposed changes in prices for transporting mail by aircraft in foreign air transportation. When prescribing those prices, the Secretary shall consider—

(1) the prices paid for transportation of mail under the Universal Postal Union Convention as ratified by the United States Government;

(2) the price-making elements used by the Universal Postal Union in prescribing its airmail prices; and

(3) the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union prices for transporting United States mail and national origin mail of their own countries.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41907(a)	49 App.:1376(h)(1).	Aug. 23, 1958, Pub. L. 85–726, § 406(h)(1), 72 Stat. 765; Jan. 3, 1975, Pub. L. 93–623, § 4, 88 Stat. 2103.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41907(b)	49 App.:1376(h)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 406(h)(3); added Jan. 3, 1975, Pub. L. 93–623, § 4, 88 Stat. 2104.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the word ''price'' is substituted for ''rate of compensation'' for consistency in this part. In clauses (1) and (2), the words ''government of a foreign country or foreign postal administration'' are substituted for ''foreign country'' for clarity and consistency in the revised title.

§ 41908. Prices for transporting mail of foreign countries

(a) PRICE DETERMINATIONS.—The United States Postal Service shall determine the prices that an air carrier holding a certificate that authorizes foreign air transportation must charge a government of a foreign country or foreign postal administration for transporting mail of the foreign country. The Postal Service shall put those prices into effect under the postal convention regulating postal relations between the United States and the foreign country or as provided under this section.

(b) CHANGES.—The Postal Service may authorize an air carrier holding a certificate that authorizes foreign air transportation, under limitations the Postal Service prescribes, to change the prices the carrier charges a government of a foreign country or foreign postal administration for transporting mail of the foreign country in the foreign country or between the foreign country and another foreign country.

(c) COLLECTING COMPENSATION.—(1) When an air carrier holding a certificate that authorizes foreign air transportation transports mail of a foreign country—

(A) under an arrangement with a government of a foreign country or foreign postal administration made or approved under this section, the carrier must collect its compensation for the transportation from the foreign country under the arrangement; and

(B) without having an arrangement with a government of a foreign country or foreign postal administration consistent with this section, the compensation collected by the United States Government for the transportation shall be for the account of the air carrier.

(2) An air carrier holding a certificate that authorizes foreign air transportation is not entitled to receive compensation from both a government of a foreign country or foreign postal administration and the United States Government for transporting the same mail of the foreign country.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1156.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41908(a)	49 App.:1375(f)(1) (2d, 3d sentences).	Aug. 23, 1958, Pub. L. 85–726, § 405(f)(1) (2d–last sentences), (2), 72 Stat. 761.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41908(b)	49 App.:1375(f)(1) (last sentence).	
41908(c)	49 App.:1375(f)(2).	

In this section, the words ''government of a foreign country or foreign postal administration'' is substituted for ''foreign country'' for clarity and consistency in the revised title.

In subsection (a), the text of 49 App.:1375(f)(1) (3d sentence) is omitted as obsolete and superseded by 39:5402. The word ''prices'' is substituted for ''rates of compensation'' for consistency in this part. The words ''from time to time'' are omitted as surplus.

In subsection (c)(1), the words ''When . . . transports mail of a foreign country . . . (A) under an arrangement with a government of a foreign country or foreign postal administration made or approved under this section . . . (B) without having an arrangement with a government of a foreign country or foreign postal administration consistent with this section'' are substituted for ''In any case where . . . has an arrangement with any foreign country for transporting its mails, made or approved in accordance with the provisions of paragraph (1) of this subsection . . . and in case of the absence of any arrangement between the air carrier and the foreign country consistent with this subsection'' for clarity and to eliminate unnecessary words. The words ''for the transportation'' are added for clarity.

§ 41909. Duty to oppose unreasonable prices under the Universal Postal Union Convention

The Secretary of State and the United States Postal Service shall—

(1) take appropriate action to ensure that the prices paid for transporting mail under the Universal Postal Union Convention are not higher than reasonable prices for transporting mail; and

(2) oppose any existing or proposed Universal Postal Union price that is higher than a reasonable price for transporting mail.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1156.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41909	49 App.:1376(h)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 406(h)(2); added Jan. 3, 1975, Pub. L. 93–623, § 4, 88 Stat. 2103.

The words ''necessary and'' are omitted as being included in the word ''appropriate''. The words ''each'' and ''all'' are omitted as surplus. The words ''transporting mail'' are substituted for ''such services'' for consistency in this section. The word ''reasonable'' is substituted for ''fair and reasonable'' for consistency in the revised title and to eliminate an unnecessary word. See revision notes following 49:10101.

§ 41910. Weighing mail

The United States Postal Service may weigh mail transported by aircraft and make statistical and administrative computations necessary in the interest of mail service. When the Secretary of Transportation decides that additional or more frequent weighings of mail are advisable or necessary to carry out this part, the Postal Service shall provide the weighings, but it is not required to provide them for continuous periods of more than 30 days.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1157.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41910	49 App.:1376(f).	Aug. 23, 1958, Pub. L. 85–726, § 406(f), 72 Stat. 764.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

The text of 49 App.:1376(f) (2d sentence) is omitted as surplus because of 39:chs. 4 and 10. The words ''upon request of the Board'' are omitted as surplus because the Secretary of Transportation makes the determination. The words ''therefor in like manner'' are omitted as surplus.

§ 41911. Evidence of providing mail service

When and in the form required by the United States Postal Service, an air carrier transporting or handling—

(1) United States mail shall submit evidence, signed by an authorized official, that the transportation or handling has been provided; and

(2) mail of a foreign country shall submit evidence, signed by an authorized official, of the amount of mail transported or handled and the compensation payable and received for that transportation or handling.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1157.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41911	49 App.:1375(g).	Aug. 23, 1958, Pub. L. 85–726, § 405(g), 72 Stat. 762.

The word ''duly'' is omitted as surplus.

§ 41912. Effect on foreign postal arrangements

This part does not—

(1) affect an arrangement made by the United States Government with the postal administration of a foreign country related to the transportation of mail by aircraft; or

(2) impair the authority of the United States Postal Service to make such an arrangement.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1157.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41912	49 App.:1375(e)(1).	Aug. 23, 1958, Pub. L. 85–726, § 405(e)(1), 72 Stat. 761.

In clause (1), the words ''abrogate or'' are omitted as being included in ''affect''.

CHAPTER 421—LABOR-MANAGEMENT PROVISIONS

SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM[1]

Sec.
42101. Definitions.
42102. Payments to eligible protected employees.
42103. Duty to hire protected employees.
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SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

42111. Mutual aid agreements.
42112. Labor requirements of air carriers.

SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

42121. Protection of employees providing air safety information.

AMENDMENTS

2000—Pub. L. 106–181, title V, § 519(b), Apr. 5, 2000, 114 Stat. 149, added heading for subchapter III and item 42121.

[SUBCHAPTER I—REPEALED]

[§§ 42101 to 42106. Repealed. Pub. L. 105–220, title I, § 199(a)(6), Aug. 7, 1998, 112 Stat. 1059]

Section 42101, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1157, defined terms in subchapter.

Section 42102, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1158, related to payments to eligible protected employees.

Section 42103, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1159, related to duty to hire protected employees.

Section 42104, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1159; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389, related to congressional review of regulations.

Section 42105, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1160, related to Airline Employees Protective Account.

Section 42106, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1160, provided ending effective date for subchapter.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

§ 42111. Mutual aid agreements

An air carrier that will receive payments from another air carrier under an agreement between the air carriers for the time the one air carrier is not providing foreign air transportation, or is providing reduced levels of foreign air transportation, because of a labor strike must file a true copy of the agreement with the Secretary of Transportation and have it approved by the Secretary under section 41309 of this title. Notwithstanding section 41309, the Secretary shall approve the agreement only if it provides that—

(1) the air carrier will receive payments of not more than 60 percent of direct operating expenses, including interest expenses, but not depreciation or amortization expenses;

(2) benefits may be paid for not more than 8 weeks, and may not be for losses incurred during the first 30 days of a strike; and

(3) on request of the striking employees, the dispute will be submitted to binding arbitration under the Railway Labor Act (45 U.S.C. 151 et seq.).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42111	49 App.:1382(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 412(c); added Oct. 24, 1978, Pub. L. 95–504, § 29(a), 92 Stat. 1730; Feb. 15, 1980, Pub. L. 96–192, § 11(2), 94 Stat. 39; Oct. 4, 1984, Pub. L. 98–443, § 9(s), 98 Stat. 1708.
	49 App.:1551(b)(1)(C) (related to 49 App.:1382(c)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(C) (related to § 412(c)); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, § 4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, § 3(a), 98 Stat. 1703.

In this section, before clause (1), the text of 49 App.:1382(c)(1) is omitted as executed. The words ''For purposes of this subsection, the term . . . (A) 'mutual aid agreement' means'' are omitted because of the restatement. The words ''contract or'', ''which are parties to such contract or agreement'', and ''during which'' are omitted as surplus. The word ''providing'' is substituted for ''engaging in'' for consistency. The words ''service in'' are omitted as surplus. The words ''No air carrier shall enter into any mutual aid agreement with any other air carrier'' are omitted as surplus. In clause (1), the words ''For purposes of this subsection, the term . . . (B) 'direct operating expenses' includes'' are omitted because of the restatement. The words ''for any period'' and ''during such period'' are omitted as surplus. In clause (2), the words ''under the agreement'' and ''during any labor strike'' are omitted as surplus.

REFERENCES IN TEXT

The Railway Labor Act, referred to in par. (3), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§ 151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

§ 42112. Labor requirements of air carriers

(a) DEFINITIONS.—In this section—

(1) ''copilot'' means an employee whose duties include assisting or relieving the pilot in manipulating an aircraft and who is qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a copilot.

(2) ''pilot'' means an employee who is—

(A) responsible for manipulating or who manipulates the flight controls of an aircraft when under way, including the landing and takeoff of an aircraft; and

(B) qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a pilot.

(b) DUTIES OF AIR CARRIERS.—An air carrier shall—

(1) maintain rates of compensation, maximum hours, and other working conditions and relations for its pilots and copilots who are providing interstate air transportation in the 48 contiguous States and the District of Columbia to conform with decision number 83,

[1] Subchapter I repealed by Pub. L. 105–220 without corresponding amendment of chapter analysis.

May 10, 1934, National Labor Board, notwithstanding any limitation in that decision on the period of its effectiveness;

(2) maintain rates of compensation for its pilots and copilots who are providing foreign air transportation or air transportation only in one territory or possession of the United States; and

(3) comply with title II of the Railway Labor Act (45 U.S.C. 181 et seq.) as long as it holds its certificate.

(c) MINIMUM ANNUAL RATE OF COMPENSATION.—A minimum annual rate under subsection (b)(2) of this section may not be less than the annual rate required to be paid for comparable service to a pilot or copilot under subsection (b)(1) of this section.

(d) COLLECTIVE BARGAINING.—This section does not prevent pilots or copilots of an air carrier from obtaining by collective bargaining higher rates of compensation or more favorable working conditions or relations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42112(a)	49 App.:1371(k)(5).	Aug. 23, 1958, Pub. L. 85–726, § 401(k), 72 Stat. 756.
42112(b), (c)	49 App.:1371(k)(1), (2), (4).	
42112(d)	49 App.:1371(k)(3).	

In subsection (a), the words ''properly'' and ''currently'' are omitted as surplus.

In subsection (b), the word ''providing'' is substituted for ''engaged in'' for consistency in the revised title. In clause (1), the words ''48 contiguous States and the District of Columbia'' are substituted for ''the continental United States (not including Alaska)'' for clarity and consistency in the revised title. In clause (2), the words ''overseas or'' are omitted as obsolete. The word ''only'' is substituted for ''wholly'' for consistency. In clause (3), the words ''as long as it holds'' are substituted for ''upon the holding'' for clarity.

In subsection (c), the words ''under subsection (b)(1) of this section'' are substituted for ''said decision 83 . . . engaged in interstate air transportation within the continental United States (not including Alaska)'' to eliminate unnecessary words.

In subsection (d), the words ''or other employees'' are omitted as unnecessary because this section only applies to pilots and copilots.

REFERENCES IN TEXT

The Railway Labor Act, referred to in subsec. (b)(3), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended. Title II of the Act was added by act Apr. 10, 1936, ch. 166, 49 Stat. 1189, and is classified generally to subchapter II (§ 181 et seq.) of chapter 8 of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

LABOR INTEGRATION

Pub. L. 110–161, div. K, title I, § 117, Dec. 26, 2007, 121 Stat. 2382, provided that:

''(a) LABOR INTEGRATION.—With respect to any covered transaction involving two or more covered air carriers that results in the combination of crafts or classes that are subject to the Railway Labor Act (45 U.S.C. 151 et seq.), sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 C.A.B. 45) shall apply to the integration of covered employees of the covered air carriers; except that—

''(1) if the same collective bargaining agent represents the combining crafts or classes at each of the covered air carriers, that collective bargaining agent's internal policies regarding integration, if any, will not be affected by and will supersede the requirements of this section; and

''(2) the requirements of any collective bargaining agreement that may be applicable to the terms of integration involving covered employees of a covered air carrier shall not be affected by the requirements of this section as to the employees covered by that agreement, so long as those provisions allow for the protections afforded by sections 3 and 13 of the Allegheny-Mohawk provisions.

''(b) DEFINITIONS.—In this section, the following definitions apply:

''(1) AIR CARRIER.—The term 'air carrier' means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

''(2) COVERED AIR CARRIER.—The term 'covered air carrier' means an air carrier that is involved in a covered transaction.

''(3) COVERED EMPLOYEE.—The term 'covered employee' means an employee who—

''(A) is not a temporary employee; and

''(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

''(4) COVERED TRANSACTION.—The term 'covered transaction' means—

''(A) a transaction for the combination of multiple air carriers into a single air carrier; and which

''(B) involves the transfer of ownership or control of—

''(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

''(ii) 50 percent or more (by value) of the assets of the air carrier.

''(c) APPLICATION.—This section shall not apply to any covered transaction involving a covered air carrier that took place before the date of enactment of this Act [Dec. 26, 2007].

''(d) EFFECTIVENESS OF PROVISION.—This section shall become effective on the date of enactment of this Act and shall continue in effect in fiscal years after fiscal year 2008.''

SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

§ 42121. Protection of employees providing air safety information

(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of

Federal law relating to air carrier safety under this subtitle or any other law of the United States;

(3) testified or is about to testify in such a proceeding; or

(4) assisted or participated or is about to assist or participate in such a proceeding.

(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Federal Aviation Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION; PRELIMINARY ORDER.—

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) REQUIREMENTS.—

(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) FINAL ORDER.—

(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been

brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

(4) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, contractor, or subcontractor who, acting without direction from such air carrier, contractor, or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.

(e) CONTRACTOR DEFINED.—In this section, the term ''contractor'' means a company that performs safety-sensitive functions by contract for an air carrier.

(Added Pub. L. 106–181, title V, § 519(a), Apr. 5, 2000, 114 Stat. 145.)

EFFECTIVE DATE

Subchapter applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

SUBPART III—SAFETY

CHAPTER 441—REGISTRATION AND RECORDATION OF AIRCRAFT

Sec.
44101. Operation of aircraft.
44102. Registration requirements.
44103. Registration of aircraft.
44104. Registration of aircraft components and dealers' certificates of registration.
44105. Suspension and revocation of aircraft certificates.
44106. Revocation of aircraft certificates for controlled substance violations.
44107. Recordation of conveyances, leases, and security instruments.
44108. Validity of conveyances, leases, and security instruments.
44109. Reporting transfer of ownership.
44110. Information about aircraft ownership and rights.
44111. Modifications in registration and recordation system for aircraft not providing air transportation.
44112. Limitation of liability.
44113. Definitions.

AMENDMENTS

2004—Pub. L. 108–297, § 6(b), Aug. 9, 2004, 118 Stat. 1097, added item 44113.

§ 44101. Operation of aircraft

(a) REGISTRATION REQUIREMENT.—Except as provided in subsection (b) of this section, a person may operate an aircraft only when the aircraft is registered under section 44103 of this title.

(b) EXCEPTIONS.—A person may operate an aircraft in the United States that is not registered—

(1) when authorized under section 40103(d) or 41703 of this title;

(2) when it is an aircraft of the national defense forces of the United States and is identified in a way satisfactory to the Administrator of the Federal Aviation Administration; and

(3) for a reasonable period of time after a transfer of ownership, under regulations prescribed by the Administrator.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1161.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44101(a)	49 App.:1401(a) (1st sentence words before proviso less words between parentheses).	Aug. 23, 1958, Pub. L. 85–726, § 501(a), 72 Stat. 771.
44101(b)	49 App.:1401(a) (1st sentence words between parentheses, proviso, last sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, the word ''navigate'' is omitted as being included in the definition of ''operate aircraft'' in section 40102(a) of the revised title.

In subsection (a), the words ''Except as provided in subsection (b) of this section'' are added for clarity. The words ''a person may . . . an aircraft only when the aircraft is registered under section 44103 of this title'' are substituted for ''It shall be unlawful . . . any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or . . . any aircraft not eligible for registration'' for clarity and to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''A person may operate an aircraft in the United States that is not registered'' are substituted for ''may be operated and navigated without being so registered'' and ''may . . . permit the operation and navigation of aircraft without registration'' for clarity. In clause (2), the words ''identified in a way'' are substituted for ''identified, by the agency having jurisdiction over them, in a manner'' to eliminate unnecessary words.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–297, § 7, Aug. 9, 2004, 118 Stat. 1097, provided that: ''This Act [see Short Title of 2004 Amendment note set out under section 40101 of this title], including any amendments made by this Act, shall take effect on the date the Cape Town Treaty (as defined in section 44113 of title 49, United States Code) enters into force with respect to the United States and shall not apply to any registration or recordation that was made before such effective date under chapter 441 of such title or any legal rights relating to such registration or recordation.'' [The Cape Town Treaty entered into force with respect to the United States on Mar. 1, 2006. See 71 F.R. 8457.]

REGULATIONS

Pub. L. 108–297, § 4, Aug. 9, 2004, 118 Stat. 1096, provided that:

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue regulations necessary to carry out this Act [see Short Title of 2004 Amendment note set out under section 40101 of this title], including any amendments made by this Act.

''(b) CONTENTS OF REGULATIONS.—Regulations to be issued under this Act shall specify, at a minimum, the requirements for—

''(1) the registration of aircraft previously registered in a country in which the Cape Town Treaty is in effect; and

''(2) the cancellation of registration of a civil aircraft of the United States based on a request made in accordance with the Cape Town Treaty.

''(c) EXPEDITED RULEMAKING PROCESS.—

''(1) FINAL RULE.—The Administrator shall issue regulations under this section by publishing a final rule by December 31, 2004.

''(2) EFFECTIVE DATE.—The final rule shall not be effective before the date the Cape Town Treaty enters into force with respect to the United States [Mar. 1, 2006, see Effective Date of 2004 Amendment note above].

''(3) ECONOMIC ANALYSIS.—The Administrator shall not be required to prepare an economic analysis of the cost and benefits of the final rule.

''(d) APPLICABILITY OF TREATY.—Notwithstanding parts 47.37(a)(3)(ii) and 47.47(a)(2) of title 14, of the Code of Federal Regulations, Articles IX(5) and XIII of the Cape Town Treaty shall apply to the matters described in subsection (b) until the earlier of the effective date of the final rule under this section or December 31, 2004.''

CAPE TOWN TREATY; FINDINGS AND PURPOSE

Pub. L. 108–297, § 2, Aug. 9, 2004, 118 Stat. 1095, provided that:

''(a) FINDINGS.—Congress finds the following:

''(1) The Cape Town Treaty (as defined in section 44113 of title 49, United States Code) extends modern commercial laws for the sale, finance, and lease of aircraft and aircraft engines to the international arena in a manner consistent with United States law and practice.

''(2) The Cape Town Treaty provides for internationally established and recognized financing and leasing rights that will provide greater security and commercial predictability in connection with the financing and leasing of highly mobile assets, such as aircraft and aircraft engines.

''(3) The legal and financing framework of the Cape Town Treaty will provide substantial economic benefits to the aviation and aerospace sectors, including the promotion of exports, and will facilitate the acquisition of newer, safer aircraft around the world.

''(4) Only technical changes to United States law and regulations are required since the asset-based financing and leasing concepts embodied in the Cape Town Treaty are already reflected in the United States in the Uniform Commercial Code.

''(5) The new electronic registry system established under the Cape Town Treaty will work in tandem with current aircraft document recordation systems of the Federal Aviation Administration, which have served United States industry well.

''(6) The United States Government was a leader in the development of the Cape Town Treaty.

''(b) PURPOSE.—Accordingly, the purpose of this Act [see Short Title of 2004 Amendment note set out under section 40101 of this title] is to provide for the implementation of the Cape Town Treaty in the United States by making certain technical amendments to the provisions of chapter 441 of title 49, United States Code, directing the Federal Aviation Administration to complete the necessary rulemaking processes as expeditiously as possible, and clarifying the applicability of the Treaty during the rulemaking process.''

§ 44102. Registration requirements

(a) ELIGIBILITY.—An aircraft may be registered under section 44103 of this title only when the aircraft is—

(1) not registered under the laws of a foreign country and is owned by—

(A) a citizen of the United States;

(B) an individual citizen of a foreign country lawfully admitted for permanent residence in the United States; or

(C) a corporation not a citizen of the United States when the corporation is organized and doing business under the laws of the United States or a State, and the aircraft is based and primarily used in the United States; or

(2) an aircraft of—

(A) the United States Government; or

(B) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of a State, territory, or possession.

(b) DUTY TO DEFINE CERTAIN TERM.—In carrying out subsection (a)(1)(C) of this section, the Secretary of Transportation shall define ''based and primarily used in the United States''.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1161.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44102(a)(1) ..	49 App.:1401(b) (1st sentence cl. (1)).	Aug. 23, 1958, Pub. L. 85–726, § 501(b), 72 Stat. 772; restated Nov. 9, 1977, Pub. L. 95–163, § 14, 91 Stat. 1283; Mar. 8, 1978, Pub. L. 95–241, 92 Stat. 119.
44102(a)(2) ..	49 App.:1401(b) (1st sentence cl. (2)).	
44102(b)	49 App.:1401(b) (last sentence).	

In subsection (a), before clause (1), the words ''may be registered'' are substituted for ''shall be eligible for registration'', and the words ''under section 44103 of this title'' are added, for clarity. The words ''only when'' are substituted for ''if, but only if'' for consistency. In subclause (C), the words ''not a citizen of the United States'' are substituted for ''(other than a corporation which is a citizen of the United States)'' to eliminate unnecessary words. The word ''lawfully'' is omitted as surplus.

In subsection (b), the words ''In carrying out subsection (a)(1)(C) of this section'' are added because of the restatement. The words ''by regulation'' are omitted as unnecessary because of 49:322(a).

§ 44103. Registration of aircraft

(a) GENERAL.—(1) On application of the owner of an aircraft that meets the requirements of section 44102 of this title, the Administrator of the Federal Aviation Administration shall—

(A) register the aircraft; and

(B) issue a certificate of registration to its owner.

(2) The Administrator may prescribe the extent to which an aircraft owned by the holder of a dealer's certificate of registration issued under section 44104(2) of this title also is registered under this section.

(b) CONTROLLED SUBSTANCE VIOLATIONS.—(1) The Administrator may not issue an owner's certificate of registration under subsection (a)(1) of this section to a person whose certificate is revoked under section 44106 of this title during the 5-year period beginning on the date of the revocation, except—

(A) as provided in section 44106(e)(2) of this title; or

(B) that the Administrator may issue the certificate to the person after the one-year period beginning on the date of the revocation if the Administrator decides that the aircraft otherwise meets the requirements of section 44102 of this title and that denial of a certificate for the 5-year period—

(i) would be excessive considering the nature of the offense or the act committed and the burden the denial places on the person; or

(ii) would not be in the public interest.

(2) A decision of the Administrator under paragraph (1)(B)(i) or (ii) of this subsection is within the discretion of the Administrator. That decision or failure to make a decision is not subject to administrative or judicial review.

(c) CERTIFICATES AS EVIDENCE.—A certificate of registration issued under this section is—

(1) conclusive evidence of the nationality of an aircraft for international purposes, but not conclusive evidence in a proceeding under the laws of the United States; and

(2) not evidence of ownership of an aircraft in a proceeding in which ownership is or may be in issue.

(d) CERTIFICATES AVAILABLE FOR INSPECTION.—An operator of an aircraft shall make available for inspection a certificate of registration for the aircraft when requested by a United States Government, State, or local law enforcement officer.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1162.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44103(a)(1) ..	49 App.:1401(c), (d).	Aug. 23, 1958, Pub. L. 85–726, §§ 501(c), (d), (f), 505 (2d sentence), 72 Stat. 772, 774.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44103(a)(2) ..	49 App.:1405 (2d sentence).	
	49 App.:1655(c)(1).	
44103(b)	49 App.:1401(e)(2)(D), (E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 501(e)(2)(D), (E); added Oct. 19, 1984, Pub. L. 98–499, § 4(a), 98 Stat. 2315.
44103(c)	49 App.:1401(f).	
44103(d)	49 App.:1401(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 501(g); added Oct. 27, 1986, Pub. L. 99–570, § 3401(a)(2), 100 Stat. 3207–99.

In subsection (a)(1), the words ''On application'' are substituted for ''upon request'', and the words ''meets the requirements of section 44102 of this title'' are substituted for ''eligible for registration'', for consistency in this subchapter. The text of 49 App.:1401(d) is omitted as unnecessary because of 49:322(a).

In subsection (b)(1)(B), before subclause (i), the words ''after the one-year period beginning on the date of the revocation'' are substituted for ''before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation)'' for clarity and to eliminate unnecessary words. The words ''otherwise meets the requirements of section 44102 of this title'' are substituted for ''is otherwise eligible for registration under this section'' because of the restatement. The words ''denial of a certificate'' are substituted for ''revocation of the certificate'' for clarity.

In subsection (c), before clause (1), the words ''A certificate of registration'' are substituted for ''Registration'' for clarity. In clause (2), the words ''by a particular person'' are omitted as surplus.

AIRCRAFT SITUATIONAL DISPLAY DATA

Pub. L. 106–181, title VII, § 729, Apr. 5, 2000, 114 Stat. 168, provided that:

''(a) IN GENERAL.—A memorandum of agreement between the Administrator [of the Federal Aviation Administration] and any person that directly obtains aircraft situational display data from the Federal Aviation Administration shall require that—

''(1) the person demonstrate to the satisfaction of the Administrator that the person is capable of selectively blocking the display of any aircraft-situation-display-to-industry derived data related to any identified aircraft registration number; and

''(2) the person agree to block selectively the aircraft registration numbers of any aircraft owner or operator upon the Administration's request.

''(b) EXISTING MEMORANDA TO BE CONFORMED.—Not later than 30 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall conform any memoranda of agreement, in effect on such date of enactment, between the Federal Aviation Administration and a person under which that person obtains air-

craft situational display data to incorporate the requirements of subsection (a).''

§ 44104. Registration of aircraft components and dealers' certificates of registration

The Administrator of the Federal Aviation Administration may prescribe regulations—

(1) in the interest of safety for registering and identifying an aircraft engine, propeller, or appliance; and

(2) in the public interest for issuing, suspending, and revoking a dealer's certificate of registration under this chapter and for its use by a person manufacturing, distributing, or selling aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1162.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44104(1)	49 App.:1402.	Aug. 23, 1958, Pub. L. 85–726, §§ 502, 505 (1st sentence), 72 Stat. 772, 774.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44104(2)	49 App.:1405 (1st sentence).	
	49 App.:1655(c)(1).	

In this section, before clause (1), the words ''prescribe regulations'' are substituted for ''establish reasonable rules and regulations'' in 49 App.:1402 and ''by such reasonable regulations'' in 49 App.:1405 (1st sentence) because of 49:322(a). In clause (1), the words ''and no aircraft engine, propeller, or appliance shall be used in violation of any such rule or regulation'' are omitted as surplus because of section 46301 of the revised title. In clause (2), the words ''in connection with'' are omitted as surplus.

§ 44105. Suspension and revocation of aircraft certificates

The Administrator of the Federal Aviation Administration may suspend or revoke a certificate of registration issued under section 44103 of this title when the aircraft no longer meets the requirements of section 44102 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1163.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44105	49 App.:1401(e)(1).	Aug. 23, 1958, Pub. L. 85–726, § 501(e)(1), 72 Stat. 772; Oct. 19, 1984, Pub. L. 98–499, § 4(a), 98 Stat. 2314.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The words ''when the aircraft no longer meets'' are substituted for ''for any cause which renders the aircraft ineligible'' for consistency.

§ 44106. Revocation of aircraft certificates for controlled substance violations

(a) DEFINITION.—In this section, ''controlled substance'' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATIONS.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking the certificate of registration for an aircraft issued to an owner under section 44103 of this title and any other certificate of registration that the owner of the aircraft holds under section 44103, if the Administrator finds that—

(A) the aircraft was used to carry out, or facilitate, an activity that is punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance); and

(B) the owner of the aircraft permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in clause (A) of this paragraph.

(2) An aircraft owner that is not an individual is deemed to have permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in paragraph (1)(A) of this subsection only if a majority of the individuals who control the owner of the aircraft or who are involved in forming the major policy of the owner permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in paragraph (1)(A).

(c) ADVICE TO HOLDERS AND OPPORTUNITY TO ANSWER.—Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator shall—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator bases the proposed action; and

(2) provide the holder of the certificate an opportunity to answer the charges and state why the certificate should not be revoked.

(d) APPEALS.—(1) A person whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and a hearing on the record. In conducting the hearing, the Board is not bound by the findings of fact of the Administrator.

(2) When a person files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall dispose of the appeal not later than 60 days after notification by the Administrator under this paragraph.

(3) A person substantially affected by an order of the Board under this subsection may seek judicial review of the order under section 46110 of this title. The Administrator shall be made a party to that judicial proceeding.

(e) ACQUITTAL.—(1) The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate of registration under this section on the basis of an activity described in subsection (b)(1)(A) of this section if the holder of the certificate is acquitted of all charges

related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked a certificate of registration of a person under this section because of an activity described in subsection (b)(1)(A) of this section, the Administrator shall reissue a certificate to the person if the person—

(A) subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; and

(B) otherwise meets the requirements of section 44102 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1163.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44106(a)	49 App.:1401(e)(2)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 501(e)(2)(A)–(C), (F); added Oct. 19, 1984, Pub. L. 98–499, § 4(a), 98 Stat. 2314, 2315.
44106(b)	49 App.:1401(e)(2)(A) (less last sentence).	
44106(c)	49 App.:1401(e)(2)(B) (1st sentence).	
44106(d)	49 App.:1401(e)(2)(B) (2d–last sentences).	
44106(e)	49 App.:1401(e)(2)(A) (last sentence), (F).	

In subsection (b)(2), the words ''knowing that the aircraft was to be used for the activity described in paragraph (1)(A) of this subsection'' are substituted for ''with knowledge of such intended use'' for clarity.

§ 44107. Recordation of conveyances, leases, and security instruments

(a) ESTABLISHMENT OF SYSTEM.—The Administrator of the Federal Aviation Administration shall establish a system for recording—

(1) conveyances that affect an interest in civil aircraft of the United States;

(2) leases and instruments executed for security purposes, including conditional sales contracts, assignments, and amendments, that affect an interest in—

(A) a specifically identified aircraft engine having at least 550 rated takeoff horsepower or its equivalent;

(B) a specifically identified aircraft propeller capable of absorbing at least 750 rated takeoff shaft horsepower;

(C) an aircraft engine, propeller, or appliance maintained for installation or use in an aircraft, aircraft engine, or propeller, by or for an air carrier holding a certificate issued under section 44705 of this title; and

(D) spare parts maintained by or for an air carrier holding a certificate issued under section 44705 of this title; and

(3) releases, cancellations, discharges, and satisfactions related to a conveyance, lease, or instrument recorded under paragraph (1) or (2).

(b) GENERAL DESCRIPTION REQUIRED.—A lease or instrument recorded under subsection (a)(2)(C) or (D) of this section only has to describe generally the engine, propeller, appliance, or spare part by type and designate its location.

(c) ACKNOWLEDGMENT.—Except as the Administrator otherwise may provide, a conveyance, lease, or instrument may be recorded under subsection (a) of this section only after it has been acknowledged before—

(1) a notary public; or

(2) another officer authorized under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States to acknowledge deeds.

(d) RECORDS AND INDEXES.—The Administrator shall—

(1) keep a record of the time and date that each conveyance, lease, and instrument is filed and recorded with the Administrator; and

(2) record each conveyance, lease, and instrument filed with the Administrator, in the order of their receipt, and index them by—

(A) the identifying description of the aircraft, aircraft engine, or propeller, or location specified in a lease or instrument recorded under subsection (a)(2)(C) or (D) of this section; and

(B) the names of the parties to each conveyance, lease, and instrument.

(e) INTERNATIONAL REGISTRY.—

(1) DESIGNATION OF UNITED STATES ENTRY POINT.—As permitted under the Cape Town Treaty, the Federal Aviation Administration Civil Aviation Registry is designated as the United States Entry Point to the International Registry relating to—

(A) civil aircraft of the United States;

(B) an aircraft for which a United States identification number has been assigned but only with regard to a notice filed under paragraph (2); and

(C) aircraft engines.

(2) SYSTEM FOR FILING NOTICE OF PROSPECTIVE INTERESTS.—

(A) ESTABLISHMENT.—The Administrator shall establish a system for filing notices of prospective assignments and prospective international interests in, and prospective sales of, aircraft or aircraft engines described in paragraph (1) under the Cape Town Treaty.

(B) MAINTENANCE OF VALIDITY.—A filing of a notice of prospective assignment, interest, or sale under this paragraph and the registration with the International Registry relating to such assignment, interest, or sale shall not be valid after the 60th day following the date of the filing unless documents eligible for recording under subsection (a) relating to such notice are filed for recordation on or before such 60th day.

(3) AUTHORIZATION FOR REGISTRATION OF AIRCRAFT.—A registration with the International Registry relating to an aircraft described in paragraph (1) (other than subparagraph (C)) is valid only if (A) the person seeking the registration first files documents eligible for recording under subsection (a) and relating to the registration with the United States Entry Point, and (B) the United States Entry Point authorizes the registration.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1164; Pub. L. 108–297, § 3, Aug. 9, 2004, 118 Stat. 1096.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44107(a)(1) ..	49 App.:1403(a)(1).	Aug. 23, 1958, Pub. L. 85–726, § 503(a)(1), (3), (b), 72 Stat. 772.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44107(a)(2)(A), (B).	49 App.:1403(a)(2).	Aug. 23, 1958, Pub. L. 85–726, § 503(a)(2), 72 Stat. 772; restated July 8, 1959, Pub. L. 86–81, § 1, 73 Stat. 180.
	49 App.:1655(c)(1).	
44107(a)(2)(C), (D).	49 App.:1403(a)(3) (less words between 13th comma and semicolon).	
	49 App.:1655(c)(1).	
44107(a)(3) ..	49 App.:1403(b).	
	49 App.:1655(c)(1).	
44107(b)	49 App.:1403(a)(3) (words between 13th comma and semicolon).	
44107(c)	49 App.:1403(e).	Aug. 23, 1958, Pub. L. 85–726, § 503(e), 72 Stat. 773; restated June 30, 1964, Pub. L. 88–346, § 2, 78 Stat. 236.
	49 App.:1655(c)(1).	
44107(d)	49 App.:1403(f).	Aug. 23, 1958, Pub. L. 85–726, § 503(f), 72 Stat. 773; July 8, 1959, Pub. L. 86–81, § 4, 73 Stat. 181.
	49 App.:1655(c)(1).	

In subsection (a)(1) and (2), the words ''title to'' are omitted as being included in ''interest in''.

In subsection (a)(2), before subclause (A), the word ''instruments'' is substituted for ''any mortgage, equipment trust . . . or other instrument'' because it is inclusive. The word ''supplement'' is omitted as being included in ''amendments''.

In subsection (a)(3), the words ''The Secretary of Transportation shall also record under the system'' are omitted as unnecessary because of the restatement.

In subsections (a)(3) and (c), the words ''lease, or instrument'' are substituted for ''other instrument'' for clarity and consistency in this subchapter.

In subsections (b) and (d), the words ''or locations'' are omitted because of 1:1.

In subsection (b), the words ''recorded under subsection (a)(2)(C) or (D) of this section'' are added for clarity. The words ''lease or instrument'' are substituted for ''instrument'' for clarity and consistency in this subchapter.

In subsection (c), before clause (1), the words ''by regulation'' are omitted because of 49:322(a). In clause (2), the words ''possession of the United States'' are substituted for ''possession thereof'' for clarity.

In subsection (d), the words ''lease, and instrument'' are substituted for ''other instruments'' for clarity and consistency in this subchapter. In clause (1), the words ''of the time and date of'' before ''recordation'' are omitted as unnecessary because of the restatement. In clause (2), before subclause (A), the words ''in files to be kept for that purpose'' are omitted as unnecessary. In subclause (A), the words ''location specified in a lease or instrument recorded under subsection (a)(2)(C) or (D) of this section'' are substituted for ''in the case of an instrument referred to in subsection (a)(3) of this section, the location or locations specified therein'' for clarity and consistency in this subchapter.

AMENDMENTS

2004—Subsec. (a)(2)(A). Pub. L. 108–297, § 3(a)(1), substituted ''550'' for ''750''.

Subsec. (a)(3). Pub. L. 108–297, § 3(a)(2), substituted ''paragraph (1) or (2)'' for ''clause (1) or (2) of this subsection''.

Subsec. (e). Pub. L. 108–297, § 3(b), added subsec. (e).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–297 effective Mar. 1, 2006, and not applicable to any registration or recordation that was made before such date under this chapter or any legal rights relating to such registration or recordation, see section 7 of Pub. L. 108–297, set out as a note under section 44101 of this title.

§ 44108. Validity of conveyances, leases, and security instruments

(a) VALIDITY BEFORE FILING.—Until a conveyance, lease, or instrument executed for security purposes that may be recorded under section 44107(a)(1) or (2) of this title is filed for recording, the conveyance, lease, or instrument is valid only against—

(1) the person making the conveyance, lease, or instrument;

(2) that person's heirs and devisees; and

(3) a person having actual notice of the conveyance, lease, or instrument.

(b) PERIOD OF VALIDITY.—When a conveyance, lease, or instrument is recorded under section 44107 of this title, the conveyance, lease, or instrument is valid from the date of filing against all persons, without other recordation, except that—

(1) a lease or instrument recorded under section 44107(a)(2)(A) or (B) of this title is valid for a specifically identified engine or propeller without regard to a lease or instrument previously or subsequently recorded under section 44107(a)(2)(C) or (D); and

(2) a lease or instrument recorded under section 44107(a)(2)(C) or (D) of this title is valid only for items at the location designated in the lease or instrument.

(c) APPLICABLE LAWS.—(1) The validity of a conveyance, lease, or instrument that may be recorded under section 44107 of this title is subject to the laws of the State, the District of Columbia, or the territory or possession of the United States at which the conveyance, lease, or instrument is delivered, regardless of the place at which the subject of the conveyance, lease, or instrument is located or delivered. If the conveyance, lease, or instrument specifies the place at which delivery is intended, it is presumed that the conveyance, lease, or instrument was delivered at the specified place.

(2) This subsection does not take precedence over the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830) or the Cape Town Treaty, as applicable.

(d) NONAPPLICATION.—This section does not apply to—

(1) a conveyance described in section 44107(a)(1) of this title that was made before August 22, 1938; or

(2) a lease or instrument described in section 44107(a)(2) of this title that was made before June 20, 1948.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1165; Pub. L. 108–297, § 5, Aug. 9, 2004, 118 Stat. 1097.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44108(a)	49 App.:1403(c) (less words after semicolon).	Aug. 23, 1958, Pub. L. 85–726, § 503(c), 72 Stat. 773.
44108(b)	49 App.:1403(d).	Aug. 23, 1958, Pub. L. 85–726, § 503(d), 72 Stat. 773; July 8, 1959, Pub. L. 86–81, § 3, 73 Stat. 181.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44108(c)(1) ..	49 App.:1406.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 506; added June 30, 1964, Pub. L. 88–346, § 1(a), 78 Stat. 236.
44108(c)(2) ..	49 App.:1406 (note).	June 30, 1964, Pub. L. 88–346, § 1(c), 78 Stat. 236.
44108(d)	49 App.:1403(c) (words after semicolon).	

In subsection (a), before clause (1), the words ''conveyance, lease, or instrument executed for security purposes'' are substituted for ''conveyance or instrument'' for clarity and consistency in this subchapter. The words ''in respect of such aircraft, aircraft engine or engines, propellers, appliances, or spare parts'' are omitted as surplus. The text of 49 App.:1403(c) (proviso words before semicolon) is omitted because of section 7(d) of this bill. In clause (1), the words ''person making the conveyance, lease, or instrument'' are substituted for ''the person by whom the conveyance or other instrument is made or given'' to eliminate unnecessary words and for consistency in this subchapter.

In subsection (b), before clause (1), the words ''When a conveyance, lease, or instrument is recorded under section 44107 of this title . . . from the date of filing'' are substituted for ''Each conveyance or other instrument recorded by means of or under the system provided for in subsection (a) or (b) of the section shall from the time of its filing for recordation'' for clarity and consistency in this subchapter and to eliminate unnecessary words. In clause (1), the words ''is valid'' are substituted for ''*Provided*, That . . . shall not be affected'' for consistency in this subchapter. The words ''or engines . . . or propellers'' are omitted because of 1:1. In clause (2), the words ''is valid'' are substituted for ''shall be effective'' for consistency in this subchapter. The words ''for items at the location designated in the lease or instrument'' are substituted for ''which may from time to time be situated at the designated location or locations and only while so situated'' for clarity and to eliminate unnecessary words.

In subsection (c)(1), the words ''conveyance, lease, or'' are added for consistency in this subchapter. The words ''the conveyance, lease, or instrument'' are substituted for ''therein'', and the words ''it is presumed'' are substituted for ''it shall constitute presumptive evidence'', for clarity.

In subsection (d)(2), the words ''lease or instrument'' are substituted for ''instrument'' for clarity and consistency in this subchapter.

AMENDMENTS

2004—Subsec. (c)(2). Pub. L. 108–297 inserted ''or the Cape Town Treaty, as applicable'' before period at end.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–297 effective Mar. 1, 2006, and not applicable to any registration or recordation that was made before such date under this chapter or any legal rights relating to such registration or recordation, see section 7 of Pub. L. 108–297, set out as a note under section 44101 of this title.

§ 44109. Reporting transfer of ownership

(a) FILING NOTICES.—A person having an ownership interest in an aircraft for which a certificate of registration was issued under section 44103 of this title shall file a notice with the Secretary of the Treasury that the Secretary requires by regulation, not later than 15 days after a sale, conditional sale, transfer, or conveyance of the interest.

(b) EXEMPTIONS.—The Secretary—

(1) shall prescribe regulations that establish guidelines for exempting a person or class from subsection (a) of this section; and

(2) may exempt a person or class under the regulations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1166.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44109(a)	49 App.:1509(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1109(f); added Oct. 27, 1986, Pub. L. 99–570, § 3401(d)(1), 100 Stat. 3207–101.
44109(b)	49 App.:1509 (note).	Oct. 27, 1986, Pub. L. 99–570, § 3401(d)(2), 100 Stat. 3207–102.

In subsection (a), the text of 49 App.:1509(f) (last sentence) is omitted as unnecessary.

In subsection (b)(1), the words ''Within 30 days after the date of enactment of subsection (f) of section 1109 of the Federal Aviation Act of 1958 as added by this subsection'' are omitted as obsolete.

§ 44110. Information about aircraft ownership and rights

The Administrator of the Federal Aviation Administration may provide by regulation for—

(1) endorsing information on each certificate of registration issued under section 44103 of this title and each certificate issued under section 44704 of this title about ownership of the aircraft for which each certificate is issued; and

(2) recording transactions affecting an interest in, and for other records, proceedings, and details necessary to decide the rights of a party related to, a civil aircraft of the United States, aircraft engine, propeller, appliance, or spare part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1166.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44110	49 App.:1403(g).	Aug. 23, 1958, Pub. L. 85–726, § 503(g), 72 Stat. 774.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In clause (1), the words ''each certificate of registration issued under section 44103 of this title and each certificate issued under section 44704 of this title'' are substituted for ''certificates of registration, or aircraft certificates'' for clarity and because of the restatement.

In clause (2), the words ''recording transactions'' are substituted for ''recording of discharges and satisfactions of recorded instruments, and other transactions'' to eliminate unnecessary words. The words ''title to'' are omitted as being included in ''interest in''. The words ''to decide'' are substituted for ''to facilitate the determination'' to eliminate unnecessary words. The words ''related to'' are substituted for ''dealing with'' for clarity. The word ''spare'' is added for consistency in this section.

§ 44111. Modifications in registration and recordation system for aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) AUTHORITY TO MAKE MODIFICATIONS.—The Administrator of the Federal Aviation Adminis-

tration shall make modifications in the system for registering and recording aircraft necessary to make the system more effective in serving the needs of—

(1) buyers and sellers of aircraft;

(2) officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)); and

(3) other users of the system.

(c) NATURE OF MODIFICATIONS.—Modifications made under subsection (b) of this section—

(1) may include a system of titling aircraft or registering all aircraft, even aircraft not operated;

(2) shall ensure positive, verifiable, and timely identification of the true owner; and

(3) shall address at least each of the following deficiencies in and abuses of the existing system:

(A) the registration of aircraft to fictitious persons.

(B) the use of false or nonexistent addresses by persons registering aircraft.

(C) the use by a person registering an aircraft of a post office box or ''mail drop'' as a return address to evade identification of the person's address.

(D) the registration of aircraft to entities established to facilitate unlawful activities.

(E) the submission of names of individuals on applications for registration of aircraft that are not identifiable.

(F) the ability to make frequent legal changes in the registration markings assigned to aircraft.

(G) the use of false registration markings on aircraft.

(H) the illegal use of ''reserved'' registration markings on aircraft.

(I) the large number of aircraft classified as being in ''self-reported status''.

(J) the lack of a system to ensure timely and adequate notice of the transfer of ownership of aircraft.

(K) the practice of allowing temporary operation and navigation of aircraft without the issuance of a certificate of registration.

(d) REGULATIONS.—(1) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out this section and provide a written explanation of how the regulations address each of the deficiencies and abuses described in subsection (c) of this section. In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(2) Regulations prescribed under this subsection shall require that—

(A) each individual listed in an application for registration of an aircraft provide with the application the individual's driver's license number; and

(B) each person (not an individual) listed in an application for registration of an aircraft provide with the application the person's taxpayer identifying number.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1166.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44111(a)	49 App.:1303 (note).	Nov. 11, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
44111(b)	49 App.:1401(h) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 501(h); added Nov. 11, 1988, Pub. L. 100–690, § 7203(a), 102 Stat. 4424.
44111(c)	49 App.:1401(h) (last sentence).	
44111(d)	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7207(a), (b), 102 Stat. 4427.

In subsection (c)(3)(D), the words ''corporations and others'' are omitted as surplus.

In subsection (d)(1), the words ''Not later than September 18, 1989'' and ''final'' are omitted as obsolete. The words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092).

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DRUG ENFORCEMENT STATUS AND PROGRESS; REPORTS TO CONGRESS; DEFINITIONS

Pub. L. 100–690, title VII, § 7207(d), (e), Nov. 18, 1988, 102 Stat. 4428, provided that:

''(d) REPORT.—Not later than 180 days after the date of the enactment of this subtitle [Nov. 18, 1988] and annually thereafter during the 5-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

''(1) The status of the rulemaking process, issuance of regulations, and implementation of regulations in accordance with this section [see subsec. (d) of this section].

''(2) The progress being made in reducing the number of aircraft classified by the Federal Aviation Administration as being in 'sale-reported status'.

''(3) The progress being made in expediting the filing and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

''(4) The status of establishing and collecting fees under section 313(f) of the Federal Aviation Act [see section 45302(b) of this title].

''(e) DEFINITIONS.—For purposes of this subtitle [subtitle E (§§ 7201–7214) of title VII of Pub. L. 100–690, see Tables for classification]—

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

''(2) AIRCRAFT.—The term 'aircraft' has the meaning such term has under section 101 of the Federal Aviation Act of 1958 [see section 40102 of this title].''

INFORMATION COORDINATION

Pub. L. 100–690, title VII, § 7210, Nov. 18, 1988, 102 Stat. 4432, provided that: ''Not later than 180 days after the date of the enactment of this subtitle [Nov. 18, 1988]

and annually thereafter during the 3-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

''(1) The progress made in establishing a process for provision of informational assistance by such Administration to officials of Federal, State, and local law enforcement agencies.

''(2) The progress made in establishing a process for effectively pursuing suspensions and revocations of certificates of registration and airman certificates in accordance with the amendments made to the Federal Aviation Act of 1958 by the Aviation Drug-Trafficking Control Act [Pub. L. 98–499, see Tables for classification], section 3401 of the Anti-Drug Abuse Act of 1986 [Pub. L. 99–570], and this subtitle [subtitle E (§§ 7201–7214) of title VII of Pub. L. 100–690].

''(3) The efforts of such Administration in assessing and defining the appropriate relationship of such Administration's informational assistance resources (including the El Paso Intelligence Center and the Law Enforcement Assistance Unit of the Aeronautical Center of such Administration).

''(4) The progress made in issuing guidelines on (A) the reporting of aviation sensitive drug-related information, and (B) the development, in coordination with the Drug Enforcement Administration of the Department of Justice and the United States Customs Service, of training and educational policies to assist employees of such Administration to better understand (i) the trafficking of controlled substances (as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]), and (ii) the role of such Administration with respect to such trafficking.

''(5) The progress made in improving and expanding such Administration's role in the El Paso Intelligence Center.''

APPLICABILITY OF PAPERWORK REDUCTION ACT

Pub. L. 100–690, title VII, § 7211(b), Nov. 18, 1988, 102 Stat. 4433, provided that: ''No information collection requests necessary to carry out the objectives of this subtitle [subtitle E (§§ 7201–7214) of title VI of Pub. L. 100–690, see Tables for classification] (including the amendments made by this subtitle) shall be subject to or affect, directly or indirectly, the annual information collection budget goals established for the Federal Aviation Administration and the Department of Transportation under chapter 35 of title 44, United States Code.''

§ 44112. Limitation of liability

(a) DEFINITIONS.—In this section—

(1) ''lessor'' means a person leasing for at least 30 days a civil aircraft, aircraft engine, or propeller.

(2) ''owner'' means a person that owns a civil aircraft, aircraft engine, or propeller.

(3) ''secured party'' means a person having a security interest in, or security title to, a civil aircraft, aircraft engine, or propeller under a conditional sales contract, equipment trust contract, chattel or corporate mortgage, or similar instrument.

(b) LIABILITY.—A lessor, owner, or secured party is liable for personal injury, death, or property loss or damage on land or water only when a civil aircraft, aircraft engine, or propeller is in the actual possession or control of the lessor, owner, or secured party, and the personal injury, death, or property loss or damage occurs because of—

(1) the aircraft, engine, or propeller; or

(2) the flight of, or an object falling from, the aircraft, engine, or propeller.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1167.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44112	49 App.:1404.	Aug. 23, 1958, Pub. L. 85–726, § 504, 72 Stat. 774; restated July 8, 1959, Pub. L. 86–81, § 2, 73 Stat. 180.

In subsection (a), clauses (1) and (3) are derived from 49 App.:1404 (2d–57th words). Clause (2) is added for clarity. In clause (1), the words ''bona fide'' are omitted as surplus. In clause (3), the word ''nature'' is omitted as surplus.

In subsection (b), before clause (1), the words ''personal injury, death'' are substituted for ''any injury to or death of persons'', and the words ''on land or water'' are substituted for ''on the surface of the earth (whether on land or water)'', to eliminate unnecessary words. In clause (2), the words ''ascent, descent, or'' and ''dropping or'' are omitted as surplus.

§ 44113. Definitions

In this chapter, the following definitions apply:

(1) CAPE TOWN TREATY.—The term ''Cape Town Treaty'' means the Convention on International Interests in Mobile Equipment, as modified by the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, signed at Rome on May 9, 2003.

(2) UNITED STATES ENTRY POINT.—The term ''United States Entry Point'' means the Federal Aviation Administration Civil Aviation Registry.

(3) INTERNATIONAL REGISTRY.—The term ''International Registry'' means the registry established under the Cape Town Treaty.

(Added Pub. L. 108–297, § 6(a), Aug. 9, 2004, 118 Stat. 1097.)

EFFECTIVE DATE

Section effective Mar. 1, 2006, and not applicable to any registration or recordation that was made before such date under this chapter or any legal rights relating to such registration or recordation, see section 7 of Pub. L. 108–297, set out as an Effective Date of 2004 Amendment note under section 44101 of this title.

CHAPTER 443—INSURANCE

Sec.
44301. Definitions.
44302. General authority.
44303. Coverage.
44304. Reinsurance.
44305. Insuring United States Government property.
44306. Premiums and limitations on coverage and claims.
44307. Revolving fund.
44308. Administrative.
44309. Civil actions.
44310. Ending effective date.

§ 44301. Definitions

In this chapter—

(1) ''aircraft manufacturer'' means any company or other business entity, the majority ownership and control of which is by United States citizens, that manufactures aircraft or aircraft engines.

(2) ''American aircraft'' means—

(A) a civil aircraft of the United States; and

(B) an aircraft owned or chartered by, or made available to—

(i) the United States Government; or

(ii) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of the State, territory, or possession.

(3) ''insurance carrier'' means a person authorized to do aviation insurance business in a State, including a mutual or stock insurance company and a reciprocal insurance association.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1168; Pub. L. 108–176, title I, § 106(a)(2), Dec. 12, 2003, 117 Stat. 2498.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44301	49 App.:1531.	Aug. 23, 1958, Pub. L. 85–726, § 1301, 72 Stat. 800; restated Nov. 9, 1977, Pub. L. 95–163, § 1(a), 91 Stat. 1278.

In this section, the text of 49 App.:1531(3) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (1)(B)(i), the words ''United States Government'' are substituted for ''United States or any department or agency thereof'' for consistency in the revised title and with other titles of the United States Code.

In clause (1)(B)(ii), the words ''the government of'' are omitted for consistency in the revised title.

In clause (2), the words ''insurance company'' are omitted as being included in ''insurance carrier''. The words ''means a person'' are added because they are inclusive. The words ''group or association'' are omitted as being included in ''person''. The word ''State'' is substituted for ''State of the United States'' to eliminate unnecessary words.

AMENDMENTS

2003—Pub. L. 108–176 added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

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.

§ 44302. General authority

(a) INSURANCE AND REINSURANCE.—(1) Subject to subsection (c) of this section and section 44305(a) of this title, the Secretary of Transportation may provide insurance and reinsurance against loss or damage arising out of any risk from the operation of an American aircraft or foreign-flag aircraft.

(2) An aircraft may be insured or reinsured for not more than its reasonable value as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry. Insurance or reinsurance may be provided only when the Secretary decides that the insurance cannot be obtained on reasonable terms from an insurance carrier.

(b) REIMBURSEMENT OF INSURANCE COST INCREASES.—

(1) IN GENERAL.—The Secretary may reimburse an air carrier for the increase in the cost of insurance, with respect to a premium for coverage ending before October 1, 2002, against loss or damage arising out of any risk from the operation of an American aircraft over the insurance premium that was in effect for a comparable operation during the period beginning September 4, 2001, and ending September 10, 2001, as the Secretary may determine. Such reimbursement is subject to subsections (a)(2), (c), and (d) of this section and to section 44303.

(2) PAYMENT FROM REVOLVING FUND.—A reimbursement under this subsection shall be paid from the revolving fund established by section 44307.

(3) FURTHER CONDITIONS.—The Secretary may impose such further conditions on insurance for which the increase in premium is subject to reimbursement under this subsection as the Secretary may deem appropriate in the interest of air commerce.

(4) TERMINATION OF AUTHORITY.—The authority to reimburse air carriers under this subsection shall expire 180 days after the date of enactment of this paragraph.

(c) PRESIDENTIAL APPROVAL.—The Secretary may provide insurance or reinsurance under subsection (a) of this section, or reimburse an air carrier under subsection (b) of this section, only with the approval of the President. The President may approve the insurance or reinsurance or the reimbursement only after deciding that the continued operation of the American aircraft or foreign-flag aircraft to be insured or reinsured is necessary in the interest of air commerce or national security or to carry out the foreign policy of the United States Government.

(d) CONSULTATION.—The President may require the Secretary to consult with interested departments, agencies, and instrumentalities of the Government before providing insurance or reinsurance or reimbursing an air carrier under this chapter.

(e) ADDITIONAL INSURANCE.—With the approval of the Secretary, a person having an insurable interest in an aircraft may insure with other underwriters in an amount that is more than the amount insured with the Secretary. However, the Secretary may not benefit from the additional insurance. This subsection does not prevent the Secretary from making contracts of coinsurance.

(f) EXTENSION OF POLICIES.—

(1) IN GENERAL.—The Secretary shall extend through August 31, 2008, and may extend through December 31, 2008, the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

(2) SPECIAL RULES.—Notwithstanding paragraph (1)—

(A) in no event shall the total premium paid by the air carrier for the policy, as amended, be more than twice the premium that the air carrier was paying to the Department of Transportation for its third party policy as of June 19, 2002; and

(B) the coverage in such policy shall begin with the first dollar of any covered loss that is incurred.

(g) AIRCRAFT MANUFACTURERS.—

(1) IN GENERAL.—The Secretary may provide to an aircraft manufacturer insurance for loss or damage resulting from operation of an aircraft by an air carrier and involving war or terrorism.

(2) AMOUNT.—Insurance provided by the Secretary under this subsection shall be for loss or damage in excess of the greater of the amount of available primary insurance or $50,000,000.

(3) TERMS AND CONDITIONS.—Insurance provided by the Secretary under this subsection shall be subject to the terms and conditions set forth in this chapter and such other terms and conditions as the Secretary may prescribe.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1168; Pub. L. 105–137, § 2(a), Dec. 2, 1997, 111 Stat. 2640; Pub. L. 107–42, title II, § 201(a), Sept. 22, 2001, 115 Stat. 234; Pub. L. 107–296, title XII, § 1202, Nov. 25, 2002, 116 Stat. 2286; Pub. L. 108–11, title IV, § 4001(a), Apr. 16, 2003, 117 Stat. 606; Pub. L. 108–176, title I, § 106(a)(1), Dec. 12, 2003, 117 Stat. 2498; Pub. L. 108–447, div. H, title I, § 106(a), Dec. 8, 2004, 118 Stat. 3204; Pub. L. 109–115, div. A, title I, § 108(a), Nov. 30, 2005, 119 Stat. 2402; Pub. L. 110–161, div. K, title I, § 114(a), Dec. 26, 2007, 121 Stat. 2381.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44302(a)	49 App.:1532(a)(1) (less words between 1st and 3d commas), (3).	Aug. 23, 1958, Pub. L. 85–726, § 1302(a), 72 Stat. 801; restated Nov. 9, 1977, Pub. L. 95–163, § 2, 91 Stat. 1278; Oct. 31, 1992, Pub. L. 102–581, § 401(b), 106 Stat. 4897.
	49 App.:1537(a) (last sentence words between 2d and 3d commas).	Aug. 23, 1958, Pub. L. 85–726, § 1307(a) (last sentence words between 2d and 3d commas), 72 Stat. 804; Oct. 4, 1984, Pub. L. 98–443, § 9(b), 98 Stat. 1706.
44302(b)	49 App.:1532(a)(1) (words between 1st and 2d commas), (2).	
44302(c)	49 App.:1532(a)(1) (words between 2d and 3d commas).	
44302(d)	49 App.:1541.	Aug. 23, 1958, Pub. L. 85–726, § 1311, 72 Stat. 806.

In subsection (a)(1), before clause (A), the words ''Subject to subsection (b) of this section'' are added, and the words ''American aircraft or foreign-flag aircraft'' are substituted for ''aircraft'' in 49 App.:1532(a), for clarity. The words ''in the manner and to the extent provided by this subchapter'' are omitted as unnecessary. The words ''Insurance shall be issued under this subchapter only to cover any risk from the operation of an aircraft . . . such aircraft is'' are omitted because of the restatement. In clause (B), the word ''places'' is substituted for ''points'' for consistency in the revised title.

In subsection (a)(2), the words ''An aircraft may be insured or reinsured for not more than'' are substituted for ''and such stated amount shall not exceed'' in 49 App.:1537(a) for clarity and because of the restatement. The words ''its reasonable value'' are substituted for ''an amount . . . to represent the fair and reasonable value of the aircraft'' to eliminate unnecessary words. The words ''Insurance or reinsurance may be provided only'' are added because of the restatement. The word ''conditions'' is omitted as being included in ''terms''.

In subsection (b), the words ''The Secretary may provide insurance or reinsurance under subsection (a) of this section only with the approval of the President'' are substituted for ''with the approval of the President'' for clarity and because of the restatement. The words ''The President may'' are substituted for ''The President shall'' because the authority of the President is discretionary.

In subsection (c), the words ''the Secretary to consult . . . before providing insurance or reinsurance under this chapter'' are substituted for ''and after such consultation . . . as'' because of the restatement. The words ''departments, agencies, and instrumentalities'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (d), the words ''However, the Secretary may not benefit from the additional insurance'' are substituted for ''in that event, the Secretary shall not be entitled to the benefit of such insurance'' for clarity.

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (b)(4), is the date of enactment of Pub. L. 107–42, which was approved Sept. 22, 2001.

The date of enactment of this subsection, referred to in subsec. (f)(1), is the date of enactment of Pub. L. 107–296, which was approved Nov. 25, 2002.

AMENDMENTS

2007—Subsec. (f)(1). Pub. L. 110–161 substituted ''2008'' for ''2006'' in two places.

2005—Subsec. (f)(1). Pub. L. 109–115 substituted ''2006'' for ''2005'' in two places.

2004—Subsec. (f)(1). Pub. L. 108–447 substituted ''2005'' for ''2004'' in two places.

2003—Subsec. (f)(1). Pub. L. 108–11, substituted ''2004'' for ''2003'' in two places.

Subsec. (g). Pub. L. 108–176 added subsec. (g).

2002—Subsec. (f). Pub. L. 107–296 added subsec. (f).

2001—Subsec. (a)(1). Pub. L. 107–42, § 201(a)(1), substituted ''subsection (c)'' for ''subsection (b)'' and ''foreign-flag aircraft.'' for ''foreign-flag aircraft—'' and struck out subpars. (A) and (B) which read as follows:

''(A) in foreign air commerce; or

''(B) between at least 2 places, all of which are outside the United States.''

Subsec. (b). Pub. L. 107–42, § 201(a)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107–42, § 201(a)(2), (4), redesignated subsec. (b) as (c), in first sentence inserted '', or reimburse an air carrier under subsection (b) of this section,'' before ''only with the approval'', and in second sentence inserted ''or the reimbursement'' before ''only after deciding'' and ''in the interest of air commerce or national security or'' before ''to carry out the foreign policy''. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107–42, § 201(a)(2), (5), redesignated subsec. (c) as (d) and inserted ''or reimbursing an air carrier'' before ''under this chapter''. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 107–42, § 201(a)(2), redesignated subsec. (d) as (e).

1997—Subsec. (a)(2). Pub. L. 105–137 substituted ''as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry.'' for ''as determined by the Secretary.''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as other-

wise 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 TERMINATION DATE OF POLICIES

Pub. L. 109–289, div. B, title II, § 21002(a), as added by Pub. L. 110–5, § 2, Feb. 15, 2007, 121 Stat. 47, provided that subsec. (f)(1) of this section would be applied by substituting ''September 30, 2007'' for ''August 31, 2006, and may extend through December 31, 2006''.

PROVISION OF AVIATION INSURANCE COVERAGE FOR COMMERCIAL AIR CARRIER SERVICE

Determination of President of the United States, No. 94–39, July 26, 1994, 59 F.R. 38551, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States, including 3 U.S.C. 301 and 49 U.S.C. 44302, I hereby:

(1) determine that continuation of authorized humanitarian relief air services to Haiti is necessary to carry out the foreign policy of the United States;

(2) approve provision by the Secretary of Transportation of insurance against loss or damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided in 49 U.S.C. 44301–44310, whenever he determines that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to conduct an insurance business in a State of the United States;

(3) delegate to the Secretary of Transportation, in consultation with the Secretary of State, the authority vested in me by 49 U.S.C. 44302(b) [now 44302(c)], for purposes of responding to the current crisis in Haiti; and

(4) delegate to the Secretary of Transportation, in consultation with the Secretary of State, the authority vested in me by 49 U.S.C. 44306(b) [now 44306(c)] for purposes of responding to the current crisis in Haiti.

The Secretary of Transportation is directed to bring this determination immediately to the attention of all air carriers within the meaning of 49 U.S.C. 40102(a)(2), and to arrange for its publication in the Federal Register.

WILLIAM J. CLINTON.

PROVISION OF AVIATION INSURANCE COVERAGE FOR COMMERCIAL AIR CARRIER SERVICE IN DOMESTIC AND INTERNATIONAL OPERATIONS

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

Memorandum for the Secretary of Transportation

By the authority vested in me as President by the Constitution and laws of the United States including 49 U.S.C. 44302, *et seq.*, I hereby:

1. Determine that continuation of U.S.-flag commercial air service is necessary in the interest of air commerce, national security, and the foreign policy of the United States.

2. Approve provision by the Secretary of Transportation (Secretary) of insurance or reinsurance to U.S.-flag 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 49 U.S.C.:

(a) until August 31, 2008;

(b) after August 31, 2008, but no later than December 31, 2008, when the Secretary determines that such insurance or reinsurance cannot be obtained on reasonable terms and conditions from any company authorized to conduct an insurance business in a State of the United States; and

3. Delegate to the Secretary the authority, vested in me by 49 U.S.C. 44306(c), to extend this determination for additional periods beyond August 31, 2008, but no later than December 31, 2008, when the Secretary finds that the continued operation of aircraft to be insured or reinsured is necessary in the interest of air commerce or the national security, or to carry out the foreign policy of the United States Government.

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

GEORGE W. BUSH.

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, 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.

§ 44303. Coverage

(a) IN GENERAL.—The Secretary of Transportation may provide insurance and reinsurance, or reimburse insurance costs, as authorized under section 44302 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 31, 2008, 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.)

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; restated 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''.

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

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''.

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, the 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.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
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 ''providing'' is substituted for ''rendered'' and ''furnished'' because it is inclusive. The words ''except for'' are substituted for ''but such allowance to the carrier shall not provide for'' to eliminate unnecessary words.

AMENDMENTS

2001—Pub. L. 107–42 struck out subsec. (a) designation and heading ''General Authority'' and struck out subsec. (b) which read as follows:

''(b) PREMIUM LEVELS.—The Secretary may provide reinsurance at premiums not less than, or obtain reinsurance at premiums not higher than, the premiums the Secretary establishes on similar risks or the premiums the insurance carrier charges for the insurance to be reinsured by the Secretary, whichever is most advantageous to the Secretary. However, the Secretary may make allowances to the insurance carrier for expenses incurred in providing services and facilities that the Secretary considers good business practice, except for payments by the carrier for the stimulation or solicitation of insurance business.''

§ 44305. Insuring United States Government property

(a) GENERAL.—With the approval of the President, a department, agency, or instrumentality of the United States Government may obtain—

(1) insurance under this chapter, including insurance for risks from operating an aircraft in intrastate or interstate air commerce, but not including insurance on valuables subject to sections 17302 and 17303 of title 40; and

(2) insurance for risks arising from providing goods or services directly related to and necessary for operating an aircraft covered by insurance obtained under clause (1) of this subsection if the aircraft is operated—

(A) in carrying out a contract of the department, agency, or instrumentality; or

(B) to transport military forces or materiel on behalf of the United States under an agreement between the Government and the government of a foreign country.

(b) PREMIUM WAIVERS AND INDEMNIFICATION.—With the approval required under subsection (a) of this section, the Secretary of Transportation may provide the insurance without premium at the request of the Secretary of Defense or the head of a department, agency, or instrumentality designated by the President when the Secretary of Defense or the designated head agrees to indemnify the Secretary of Transportation against all losses covered by the insurance. The Secretary of Defense and any designated head may make indemnity agreements with the Secretary of Transportation under this section. If such an agreement is countersigned by the President or the President's designee, the agreement shall constitute, for purposes of section 44302(c), a determination that continuation of the aircraft operations to which the agreement applies is necessary to carry out the foreign policy of the United States.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1170; Pub. L. 105–137, § 3, Dec. 2, 1997, 111 Stat. 2640; Pub. L. 107–42, title II, § 201(e), Sept. 22, 2001, 115 Stat. 236; Pub. L. 107–217, § 3(n)(6), Aug. 21, 2002, 116 Stat. 1303.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44305	49 App.:1534.	Aug. 23, 1958, Pub. L. 85–726, § 1304, 72 Stat. 802; Oct. 31, 1992, Pub. L. 102–581, § 401(a), 106 Stat. 4897.

In this section, the words ''a department, agency, or instrumentality'' are substituted for ''Any department or agency'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), the words ''obtain insurance under this chapter'' are substituted for ''procure from the Secretary any of the insurance provided under this subchapter'' to eliminate unnecessary words. The words ''overseas air commerce'' are omitted for the reasons given in the revision note for section 40101.

In subsection (b), the words ''or the head of a department, agency, or instrumentality designated by the President'' are substituted for ''and such other agencies as the President may prescribe'' as being more precise and for consistency in the revised title. The words ''when the Secretary of Defense or the designated head agrees'' are substituted for ''in consideration of'' for clarity. The words ''any designated head'' are substituted for ''the agreement of . . . such agency'' and ''such other agencies'' for clarity and because of the restatement.

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–217 substituted ''sections 17302 and 17303 of title 40'' for ''sections 1 and 2 of the Government Losses in Shipment Act (40 U.S.C. 721, 722)''.

2001—Subsec. (b). Pub. L. 107–42 substituted ''44302(c)'' for ''44302(b)''.

1997—Subsec. (b). Pub. L. 105–137 inserted at end ''If such an agreement is countersigned by the President or the President's designee, the agreement shall constitute, for purposes of section 44302(b), a determination that continuation of the aircraft operations to which the agreement applies is necessary to carry out the foreign policy of the United States.''

§ 44306. Premiums and limitations on coverage and claims

(a) PREMIUMS BASED ON RISK.—To the extent practical, the premium charged for insurance or reinsurance under this chapter shall be based on consideration of the risk involved.

(b) ALLOWANCES IN SETTING PREMIUM RATES FOR REINSURANCE.—In setting premium rates for reinsurance, the Secretary may make allowances to the insurance carrier for expenses incurred in providing services and facilities that the Secretary considers good business practices, except for payments by the insurance carrier for the stimulation or solicitation of insurance business.

(c) TIME LIMITS.—The Secretary of Transportation may provide insurance and reinsurance under this chapter for a period of not more than 1 year. The period may be extended for additional periods of not more than 1 year each only if the President decides, before each additional period, that the continued operation of the aircraft to be insured or reinsured is necessary in the interest of air commerce or national security or to carry out the foreign policy of the United States Government.

(d) MAXIMUM INSURED AMOUNT.—The insurance policy on an aircraft insured or reinsured under this chapter shall specify a stated amount that is not more than the value of the aircraft, as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry. A claim under the policy may not be paid for more than that stated amount.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1170; Pub. L. 105–137, § 2(b), Dec. 2, 1997, 111 Stat. 2640; Pub. L. 107–42, title II, § 201(d), Sept. 22, 2001, 115 Stat. 235; Pub. L. 107–71, title I, §§ 124(b), 147, Nov. 19, 2001, 115 Stat. 631, 645; Pub. L. 107–296, title XII, § 1203, Nov. 25, 2002, 116 Stat. 2287; Pub. L. 108–176, title I, § 106(c), (e), Dec. 12, 2003, 117 Stat. 2499.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44306(a)	49 App.:1532(b).	Aug. 23, 1958, Pub. L. 85–726, § 1302(b), (c), 72 Stat. 801; restated Nov. 9, 1977, Pub. L. 95–163, § 2, 91 Stat. 1279.
44306(b)	49 App.:1532(c).	
44306(c)	49 App.:1537(a) (last sentence less words between 2d and 3d commas).	Aug. 23, 1958, Pub. L. 85–726, § 1307(a) (last sentence less words between 2d and 3d commas), 72 Stat. 804; Oct. 4, 1984, Pub. L. 98–443, § 9(b), 98 Stat. 1706.

In subsection (a), the words ''To the extent'' are substituted for ''insofar as'' for consistency.

In subsection (b), the word ''initial'' is omitted as surplus. The words ''The period'' are substituted for ''Such insurance or reinsurance'', and the words ''the President decides . . . that the continued operation of the aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government'' are substituted for ''the President makes the same determination with respect to such extension as he is required to make under paragraph (2) of subsection (a) of this section for the initial provision of such insurance or reinsurance'', for clarity.

In subsection (c), the words ''or reinsured'' are added for consistency. The words ''to be paid in the event of total loss'' are omitted as unnecessary because of the last sentence. The words ''A claim under the policy may not be paid for more than that stated amount'' are substituted for ''the amount of any claim which is compromised, settled, adjusted, or paid shall in no event exceed such stated amount'' to eliminate unnecessary words.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–176, § 106(c), substituted ''by the insurance carrier'' for ''by the air carrier''.

Subsec. (c). Pub. L. 108–176, § 106(e), made technical correction to directory language of Pub. L. 107–71, § 124(b). See 2001 Amendment note below.

2002—Subsec. (c). Pub. L. 107–296 made technical correction to directory language of Pub. L. 107–71, § 147. See 2001 Amendment note below.

2001—Subsec. (b). Pub. L. 107–42, § 201(d)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub.L. 107–71, § 147, as amended by Pub. L. 107–296, substituted ''1 year'' for ''60 days'' in two places.

Pub. L. 107–71, § 124(b), as amended by Pub. L. 108–176, § 106(e), inserted ''in the interest of air commerce or national security or'' before ''to carry out the foreign policy''.

Pub. L. 107–42, § 201(d)(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107–42, § 201(d)(1), redesignated subsec. (c) as (d).

1997—Subsec. (c). Pub. L. 105–137 substituted ''as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry.'' for ''as determined by the Secretary.''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 106(c) of 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.

Pub. L. 108–176, title I, § 106(e), Dec. 12, 2003, 117 Stat. 2499, provided that the amendment made by section 106(e) is effective Nov. 19, 2001.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–296, title XII, § 1203, Nov. 25, 2002, 116 Stat. 2287, provided that the amendment made by section 1203 is effective Nov. 19, 2001.

§ 44307. Revolving fund

(a) EXISTENCE, DISBURSEMENTS, APPROPRIATIONS, AND DEPOSITS.—(1) There is a revolving fund in the Treasury. The Secretary of the Treasury shall disburse from the fund payments to carry out this chapter.

(2) Necessary amounts to carry out this chapter may be appropriated to the fund. The amounts appropriated and other amounts received in carrying out this chapter shall be deposited in the fund.

(b) INVESTMENT.—On request of the Secretary of Transportation, the Secretary of the Treasury may invest any part of the amounts in the revolving fund in interest-bearing securities of the United States Government. The interest on, and the proceeds from the sale or redemption of, the securities shall be deposited in the fund.

(c) EXCESS AMOUNTS.—The balance in the revolving fund in excess of an amount the Secretary of Transportation determines is necessary for the requirements of the fund and for reasonable reserves to maintain the solvency of the fund shall be deposited at least annually in the Treasury as miscellaneous receipts.

(d) EXPENSES.—The Secretary of Transportation shall deposit annually an amount in the Treasury as miscellaneous receipts to cover the expenses the Government incurs when the Secretary of Transportation uses appropriated amounts in carrying out this chapter. The de-

posited amount shall equal an amount determined by multiplying the average monthly balance of appropriated amounts retained in the revolving fund by a percentage that is at least the current average rate payable on marketable obligations of the Government. The Secretary of the Treasury shall determine annually in advance the percentage applied.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1170.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44307(a)	49 App.:1536(a), (b).	Aug. 23, 1958, Pub. L. 85–726, § 1306(a)–(d), 72 Stat. 803.
44307(b)	49 App.:1536(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1306(f); added Aug. 9, 1975, Pub. L. 94–90, § 1(a), 89 Stat. 439.
44307(c)	49 App.:1536(c).	
44307(d)	49 App.:1536(d).	

In subsection (a)(1), the first sentence is added for clarity. The last sentence is substituted for 49 App.:1536(a) (last sentence) to eliminate unnecessary words and for consistency in the revised title.

In subsection (a)(2), the words ''The amounts appropriated and other amounts received in carrying out this chapter'' are substituted for ''Moneys appropriated by Congress to carry out the provisions of this subchapter and all moneys received from premiums, salvage, or other recoveries and all receipts in connection with this subchapter'' to eliminate unnecessary words.

In subsection (b), the words ''any part'' are substituted for ''all or any part'' to eliminate unnecessary words. The words ''held in the revolving fund'' are omitted as surplus. The words ''deposited in'' are substituted for ''credited to and form a part of'' for consistency.

In subsection (d), the words ''The Secretary of Transportation shall deposit annually an amount in the Treasury'' are substituted for ''Annual payments shall be made by the Secretary to the Treasury of the United States'', the words ''The deposited amount shall equal an amount determined by multiplying'' are substituted for ''These payments shall be computed by applying to'', and the words ''a percentage that is at least the current average rate payable on marketable obligations of the Government'' are substituted for ''a percentage'' and ''Such percentage shall not be less than the current average rate which the Treasury pays on its marketable obligations'', for clarity.

§ 44308. Administrative

(a) COMMERCIAL PRACTICES.—The Secretary of Transportation may carry out this chapter consistent with commercial practices of the aviation insurance business.

(b) ISSUANCE OF POLICIES AND DISPOSITION OF CLAIMS.—(1) The Secretary may issue insurance policies to carry out this chapter. The Secretary may prescribe the forms, amounts insured under the policies, and premiums charged. Any such policy may authorize the binding arbitration of claims made thereunder in such manner as may be agreed to by the Secretary and any commercial insurer that may be responsible for any part of a loss to which such policy relates. The Secretary may change an amount of insurance or a premium for an existing policy only with the consent of the insured.

(2) For a claim under insurance authorized by this chapter, the Secretary may—

(A) settle and pay the claim made for or against the United States Government;

(B) pay the amount of a binding arbitration award made under paragraph (1); and

(C) pay the amount of a judgment entered against the Government.

(c) UNDERWRITING AGENT.—(1) The Secretary may, and when practical shall, employ an insurance carrier or group of insurance carriers to act as an underwriting agent. The Secretary may use the agent to adjust claims under this chapter, but claims may be paid only when approved by the Secretary.

(2) The Secretary may pay reasonable compensation to an underwriting agent for servicing insurance the agent writes for the Secretary. Compensation may include payment for reasonable expenses incurred by the agent but may not include a payment by the agent for stimulation or solicitation of insurance business.

(3) Except as provided by this subsection, the Secretary may not pay an insurance broker or other person acting in a similar capacity any consideration for arranging insurance when the Secretary directly insures any part of the risk.

(d) BUDGET.—The Secretary shall submit annually a budget program for carrying out this chapter as provided for wholly owned Government corporations under chapter 91 of title 31.

(e) ACCOUNTS.—The Secretary shall maintain a set of accounts for audit under chapter 35 of title 31. Notwithstanding chapter 35, the Comptroller General shall allow credit for expenditures under this chapter made consistent with commercial practices in the aviation insurance business when shown to be necessary because of the business activities authorized by this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1171; Pub. L. 104–316, title I, § 127(e), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105–137, § 4, Dec. 2, 1997, 111 Stat. 2640.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44308(a)	49 App.:1537(c) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1307(a) (1st sentence), (c), (d), 72 Stat. 803, 804.
44308(b)(1) ..	49 App.:1537(a) (1st sentence words before 6th comma).	
	49 App.:1537(b).	Aug. 23, 1958, Pub. L. 85–726, § 1307(b), 72 Stat. 804; Nov. 9, 1977, Pub. L. 95–163, § 5(a), 91 Stat. 1280.
44308(b)(2) ..	49 App.:1537(a) (1st sentence words after 6th comma).	
44308(c)(1) ..	49 App.:1537(d) (1st, 3d sentences).	
44308(c)(2) ..	49 App.:1537(d) (2d, last sentences).	
44308(c)(3) ..	49 App.:1537(c) (last sentence).	
44308(d)	49 App.:1537(f) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1307(f), 72 Stat. 804; Jan. 2, 1975, Pub. L. 93–604, § 702, 88 Stat. 1964.
44308(e)	49 App.:1537(f) (last sentence).	

In subsection (a), the words ''may carry out this chapter'' are substituted for ''in administering this subchapter, may exercise his powers, perform his duties and functions, and make his expenditures'' to eliminate unnecessary words.

In subsection (b)(1), the word ''insurance'' is added for clarity. The words ''rules, and regulations'' are omitted as unnecessary because of 49:322(a). The words ''as he

deems proper'' and ''subject to the following provisions of this subsection'' are omitted as surplus. The words ''and change'' and ''fix, adjust, and change'' are omitted as being included in ''prescribe''. The words ''under the policies'' are added for clarity. The word ''charged'' is substituted for ''provided for in this subchapter'' for consistency in this subchapter.

In subsection (b)(2), before clause (A), the words ''the Secretary'' are added because of the restatement. In clause (A), the words ''adjust and . . . losses, compromise and'' are omitted as included in ''settle and pay the claim''. The word ''made'' is substituted for ''whether'' for clarity. In clause (B), the word ''entered'' is substituted for ''rendered'' because it is more appropriate. The words ''in any suit'' are omitted as surplus. The words ''or the amount of any settlement agreed upon'' are omitted as being included in ''settle and pay the claim''.

In subsection (c)(1), the words ''and when practical shall'' are substituted for ''and whenever he finds it practical to do so shall'' to eliminate unnecessary words. The word ''his'' is omitted as surplus. The words ''The Secretary may use'' are substituted for ''may be utilized'' for consistency. The words ''The services of'' are omitted as unnecessary.

In subsection (c)(2), the words ''pay reasonable compensation'' are substituted for ''allow . . . fair and reasonable compensation'' for consistency in the revised title. The words ''an underwriting agent'' are substituted for ''such companies or groups of companies'', and the words ''the agent writes'' are substituted for ''written by such companies or groups of companies as underwriting agent'', for clarity. The word ''payment'' is substituted for ''allowance'' for consistency.

In subsection (c)(3), the words ''intermediary'' and ''fee or other'' are omitted as surplus. The word ''for'' is substituted for ''by virtue of his participation in'' to eliminate unnecessary words.

In subsection (d), the word ''prepare'' is omitted as being included in ''submit''. The words ''for carrying out this chapter'' are substituted for ''in the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter'' for consistency and to eliminate unnecessary words. The words ''under chapter 91 of title 31'' are substituted for ''by the Government Corporation Control Act, as amended (59 Stat. 597; 31 U.S.C. 841)'' in section 1307(f) of the Act of August 23, 1958 (Public Law 85–726, 72 Stat. 804) because of section 4(b) of the Act of September 13, 1982 (Public Law 97–258, 96 Stat. 1067).

In subsection (e), the words ''under chapter 35 of title 31'' are substituted for ''in accordance with the provisions of the Accounting and Auditing Act of 1950'' in section 1307(f) of the Act of August 23, 1958 (Public Law 85–726, 72 Stat. 804) because of section 4(b) of the Act of September 13, 1982 (Public Law 97–258, 96 Stat. 1067). The words ''*Provided*, That . . . the Secretary may exercise the powers conferred in said subchapter, perform the duties and functions'' are omitted as surplus. The words ''Notwithstanding chapter 35'' are added for clarity. The words ''Comptroller General'' are substituted for ''General Accounting Office'' because of 31:702.

AMENDMENTS

1997—Subsec. (b)(1). Pub. L. 105–137, § 4(a), inserted after second sentence ''Any such policy may authorize the binding arbitration of claims made thereunder in such manner as may be agreed to by the Secretary and any commercial insurer that may be responsible for any part of a loss to which such policy relates.''

Subsec. (b)(2). Pub. L. 105–137, § 4(b), struck out ''and'' at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

1996—Subsec. (e). Pub. L. 104–316 substituted ''for audit'' for ''. The Comptroller General shall audit those accounts''.

§ 44309. Civil actions

(a) LOSSES.—

(1) ACTIONS AGAINST UNITED STATES.—A person may bring a civil action in a district court of the United States or in the United States Court of Federal Claims against the United States Government when—

(A) a loss insured under this chapter is in dispute; or

(B)(i) the person is subrogated under a contract between the person and a party insured under this chapter (other than section 44305(b)) to the rights of the insured party against the United States Government; and

(ii) the person has paid to the insured party, with the approval of the Secretary of Transportation, an amount for a physical damage loss that the Secretary has determined is a loss covered by insurance issued under this chapter (other than section 44305(b)).

(2) LIMITATION.—A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter.

(3) PROCEDURE.—To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28, United States Code, applies to an action under this subsection.

(b) VENUE AND JOINDER.—(1) A civil action under subsection (a) of this section may be brought in the judicial district for the District of Columbia or in the judicial district in which the plaintiff or the agent of the plaintiff resides if the plaintiff resides in the United States. If the plaintiff does not reside in the United States, the action may be brought in the judicial district for the District of Columbia or in the judicial district in which the Attorney General agrees to accept service.

(2) An interested person may be joined as a party to a civil action brought under subsection (a) of this section initially or on motion of either party to the action.

(c) TIME REQUIREMENTS.—When an insurance claim is made under this chapter, the period during which, under section 2401 of title 28, a civil action must be brought under subsection (a) of this section is suspended until 60 days after the Secretary of Transportation denies the claim. The claim is deemed to be administratively denied if the Secretary does not act on the claim not later than 6 months after filing, unless the Secretary makes a different agreement with the claimant when there is good cause for an agreement.

(d) INTERPLEADER.—(1) If the Secretary admits the Government owes money under an insurance claim under this chapter and there is a dispute about the person that is entitled to payment, the Government may bring a civil action of interpleader in a district court of the United States against the persons that may be entitled to payment. The action may be brought in the judicial district for the District of Columbia or in the judicial district in which any party resides.

(2) The district court may order a party not residing or found in the judicial district in which the action is brought to appear in a civil action under this subsection. The order shall be

served in a reasonable manner decided by the district court. If the court decides an unknown person might assert a claim under the insurance that is the subject of the action, the court may order service on that person by publication in the Federal Register.

(3) Judgment in a civil action under this subsection discharges the Government from further liability to the parties to the action and to all other persons served by publication under paragraph (2) of this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1172; Pub. L. 105–277, div. C, title I, § 110(c)(1), Oct. 21, 1998, 112 Stat. 2681–587.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44309(a)	49 App.:1540 (1st sentence less 19th–70th words, 3d sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1310, 72 Stat. 805.
44309(b)(1) ..	49 App.:1540 (1st sentence 19th–70th words, 2d sentence).	
44309(b)(2) ..	49 App.:1540 (4th sentence).	
44309(c)	49 App.:1540 (last sentence).	
44309(d)	49 App.:1540 (5th–8th sentences).	

In subsection (a), the words ''A person may bring'' are substituted for ''may be maintained'' for clarity. The words ''a civil action'' are substituted for ''suit'' because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''A civil action . . . (except the action authorized by this subsection) may not be brought'' are substituted for ''and this remedy shall be exclusive of any other action'', and the words ''involving the'' are substituted for ''by reason of'', for clarity. The words ''carrying out this chapter'' are substituted for ''employed or retained under this subchapter'', and the words ''in an action'' are substituted for ''for suits in the district courts'', for consistency. The words ''applies to'' are substituted for ''shall otherwise be the same as that provided for'' to eliminate unnecessary words. The words ''an action under this subsection'' are substituted for ''such suits'' for consistency.

In subsection (b)(1), the words ''A civil action under subsection (a) of this section may be brought'' are added for clarity. The words ''the plaintiff or the agent of the plaintiff resides'' are substituted for ''the claimant or his agent resides'' for consistency in the revised title. The words ''if the plaintiff resides in the United States'' are added for clarity. The words ''notwithstanding the amount of the claim'' are omitted as obsolete because jurisdiction under 28:1331 no longer depends on the amount of the claim. The words ''and any provision of existing law as to the jurisdiction of United States district courts'' are omitted as obsolete.

In subsection (b)(2), the words ''interested person'' are substituted for ''All persons having or claiming or who might have an interest in such insurance'' to eliminate unnecessary words. The word ''either'' is omitted as surplus. The words ''to a civil action brought under subsection (a) of this section'' are added for clarity.

In subsection (c), the words ''during which, under section 2401 of title 28, a civil action must be brought under subsection (a) of this section'' are substituted for ''within which suits may be commenced contained in section 2401 of title 28 providing for bringing of suits against the United States'' for clarity. The words ''from such time of filing'' are omitted as surplus. The words ''60 days after the Secretary of Transportation denies the claim'' are substituted for ''the claim shall have been administratively denied by the Secretary and for sixty days thereafter'' for clarity.

In subsection (d)(1), the words ''a civil action of interpleader'' are substituted for ''an action in the nature of a bill of interpleader'' because of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''persons that may be entitled to payment'' are substituted for ''such parties'' for clarity.

In subsection (d)(2), the words ''in which the action is brought'' are added for clarity. The words ''The order shall be'' are added because of the restatement. The words ''the court may order service on that person'' are substituted for ''it may direct service upon such persons unknown'' as being more precise.

In subsection (d)(3), the words ''in a civil action under this subsection'' are substituted for ''in any such suit'' for clarity.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''A person may bring a civil action in a district court of the United States against the United States Government when a loss insured under this chapter is in dispute. A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter. To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28 applies to an action under this subsection.''

§ 44310. Ending effective date

The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter is not effective after March 30, 2008.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1173; Pub. L. 105–85, div. A, title X, § 1088(a), Nov. 18, 1997, 111 Stat. 1921; Pub. L. 105–137, § 5(a), Dec. 2, 1997, 111 Stat. 2641; Pub. L. 105–277, div. C, title I, § 110(c)(2), Oct. 21, 1998, 112 Stat. 2681–588; Pub. L. 106–6, § 6, Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–31, title VI, § 6002(f), May 21, 1999, 113 Stat. 113; Pub. L. 106–181, title VII, § 711, Apr. 5, 2000, 114 Stat. 160; Pub. L. 108–11, title IV, § 4001(c), Apr. 16, 2003, 117 Stat. 606; Pub. L. 108–176, title I, § 106(d), Dec. 12, 2003, 117 Stat. 2499.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44310	49 App.:1542.	Aug. 23, 1958, Pub. L. 85–726, § 1312, 72 Stat. 806; July 20, 1961, Pub. L. 87–89, 75 Stat. 210; June 13, 1966, Pub. L. 89–447, 80 Stat. 199; Sept. 8, 1970, Pub. L. 91–399, 84 Stat. 837; Aug. 9, 1975, Pub. L. 94–90, § 2, 89 Stat. 439; July 31, 1976, Pub. L. 94–374, 90 Stat. 1065; Nov. 9, 1977, Pub. L. 95–163, § 6, 91 Stat. 1280; Oct. 14, 1982, Pub. L. 97–309, § 3, 96 Stat. 1453; Oct. 30, 1987, Pub. L. 100–148, 101 Stat. 878; Oct. 31, 1992, Pub. L. 102–581, § 402, 106 Stat. 4897.

The words ''is not effective after'' are substituted for ''shall expire at the termination of'' for clarity and consistency in the revised title.

AMENDMENTS

2003—Pub. L. 108–176 substituted ''March 30, 2008'' for ''December 31, 2004''.

Pub. L. 108–11, substituted ''2004'' for ''2003''.

2000—Pub. L. 106–181 substituted ''after December 31, 2003.'' for ''after August 6, 1999.''

1999—Pub. L. 106–31 substituted ''August 6, 1999'' for ''May 31, 1999''.

Pub. L. 106–6 substituted ''May'' for ''March''.

1998—Pub. L. 105–277 substituted ''March 31, 1999'' for ''December 31, 1998''.

1997—Pub. L. 105–137 substituted ''December 31, 1998'' for ''September 30, 2002''.

Pub. L. 105–85 substituted ''September 30, 2002'' for ''September 30, 1997''.

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Pub. L. 105–137, § 5(b), Dec. 2, 1997, 111 Stat. 2641, provided that: ''The amendment made by subsection (a) [amending this section] takes effect on October 1, 1997.''

Pub. L. 105–85, div. A, title X, § 1088(b), Nov. 18, 1997, 111 Stat. 1921, provided that: ''This section [amending this section] shall take effect as of September 30, 1997.''

CONTINUATION OF AVIATION INSURANCE LAWS

Pub. L. 102–581, title IV, § 404, Oct. 31, 1992, 106 Stat. 4898, provided that: ''Notwithstanding any other provision of law, the provisions of title XIII of the Federal Aviation Act of 1958 [now this chapter] and all insurance policies issued by the Secretary of Transportation under such title, as in effect on September 30, 1992, shall be treated as having continued in effect until the date of the enactment of this Act [Oct. 31, 1992].''

CHAPTER 445—FACILITIES, PERSONNEL, AND RESEARCH

Sec.
44501. Plans and policy.
44502. General facilities and personnel authority.
44503. Reducing nonessential expenditures.
44504. Improved aircraft, aircraft engines, propellers, and appliances.
44505. Systems, procedures, facilities, and devices.
44506. Air traffic controllers.
44507. Civil aeromedical research.
44508. Research advisory committee.
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44510. Airway science curriculum grants.
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44513. Regional centers of air transportation excellence.
44514. Flight service stations.
44515. Advanced training facilities for maintenance technicians for air carrier aircraft.
44516. Human factors program.
44517. Program to permit cost sharing of air traffic modernization projects.

AMENDMENTS

2003—Pub. L. 108–176, title I, § 183(b), Dec. 12, 2003, 117 Stat. 2517, added item 44517.

2000—Pub. L. 106–181, title VII, § 713(c), Apr. 5, 2000, 114 Stat. 161, added item 44516.

§ 44501. Plans and policy

(a) LONG RANGE PLANS AND POLICY REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall make long range plans and policy for the orderly development and use of the navigable airspace, and the orderly development and location of air navigation facilities, that will best meet the needs of, and serve the interests of, civil aeronautics and the national defense, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern.

(b) AIRWAY CAPITAL INVESTMENT PLAN.—The Administrator of the Federal Aviation Administration shall review, revise, and publish a national airways system plan, known as the Airway Capital Investment Plan, before the beginning of each fiscal year. The plan shall set forth—

(1) for a 10-year period, the research, engineering, and development programs and the facilities and equipment that the Administrator considers necessary for a system of airways, air traffic services, and navigation aids that will—

(A) meet the forecasted needs of civil aeronautics;

(B) meet the requirements that the Secretary of Defense establishes for the support of the national defense; and

(C) provide the highest degree of safety in air commerce;

(2) for the first and 2d years of the plan, detailed annual estimates of—

(A) the number, type, location, and cost of acquiring, operating, and maintaining required facilities and services;

(B) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency; and

(C) personnel levels required for the activities described in subclauses (A) and (B) of this clause;

(3) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major program for the 3-year period, and additional major research programs, acquisition of systems and facilities, and changes in personnel levels that may be required to meet long range objectives and that may have significant impact on future funding requirements; and

(4) a 10-year investment plan that considers long range objectives that the Administrator considers necessary to—

(A) ensure that safety is given the highest priority in providing for a safe and efficient airway system; and

(B) meet the current and projected growth of aviation and the requirements of interstate commerce, the United States Postal Service, and the national defense.

(c) NATIONAL AVIATION RESEARCH PLAN.—(1) The Administrator of the Federal Aviation Administration shall prepare and publish annually a national aviation research plan and submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The plan shall be submitted not later than the date of submission of the President's budget to Congress.

(2)(A) The plan shall describe, for a 5-year period, the research, engineering, and development that the Administrator of the Federal Aviation Administration considers necessary—

(i) to ensure the continued capacity, safety, and efficiency of aviation in the United

States, considering emerging technologies and forecasted needs of civil aeronautics; and

(ii) to provide the highest degree of safety in air travel.

(B) The plan shall—

(i) provide estimates by year of the schedule, cost, and work force levels for each active and planned major research and development project under sections 40119, 44504, 44505, 44507, 44509, 44511–44513, and 44912 of this title, including activities carried out under cooperative agreements with other Federal departments and agencies;

(ii) specify the goals and the priorities for allocation of resources among the major categories of research and development activities, including the rationale for the priorities identified;

(iii) identify the allocation of resources among long-term research, near-term research, and development activities;

(iv) identify the individual research and development projects in each funding category that are described in the annual budget request;

(v) highlight the research and development activities that address specific recommendations of the research advisory committee established under section 44508 of this title, and document the recommendations of the committee that are not accepted, specifying the reasons for nonacceptance; and

(vi) highlight the research and development technology transfer activities that promote technology sharing among government, industry, and academia through the Stevenson-Wydler Technology Innovation Act of 1980.

(3) Subject to section 40119(b) of this title and regulations prescribed under section 40119(b), the Administrator of the Federal Aviation Administration shall submit to the committees named in paragraph (1) of this subsection an annual report on the accomplishments of the research completed during the prior fiscal year, including a description of the dissemination to the private sector of research results and a description of any new technologies developed. The report shall be submitted with the plan required under paragraph (1) and be organized to allow comparison with the plan in effect for the prior fiscal year. The report shall be prepared in accordance with requirements of section 1116 of title 31.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1173; Pub. L. 104–264, title XI, § 1105, Oct. 9, 1996, 110 Stat. 3279; Pub. L. 104–287, § 5(74), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 106–181, title IX, § 902(a), Apr. 5, 2000, 114 Stat. 195.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44501(a)	49 App.:1353(a).	Aug. 23, 1958, Pub. L. 85–726, § 312(a), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44501(b)	49 App.:2203(b).	Sept. 3, 1982, Pub. L. 97–248, § 504(b), 96 Stat. 675; Nov. 5, 1990, Pub. L. 101–508, § 9105(a), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 114, 106 Stat. 4881.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44501(c)	49 App.:1353(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(d); added Nov. 3, 1988, Pub. L. 100–591, § 4(a), 102 Stat. 3011.

In subsection (a), the word ''Administrator'' in section 312(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g). The words ''air navigation facilities'' are substituted for ''landing areas, Federal airways, radar installations and all other aids and facilities for air navigation'' because of the definition of ''air navigation facility'' in section 40102(a) of the revised title. The words ''the armed forces'' are substituted for ''military agencies'' because of 10:101.

In subsection (b), before clause (1), the words ''the requirements of'' are omitted as surplus. The text of 49 App.:2203(b) (1st sentence) is omitted as executed. The words ''thereafter'' and ''For fiscal year 1991 and thereafter'' are omitted as obsolete. In clauses (2)(C) and (3), the word ''personnel'' is substituted for ''manpower'' for consistency in the revised title. In clause (2)(C), the word ''all'' is omitted as surplus.

In subsection (c), before clause (1), the word ''completed'' is omitted as surplus.

In subsection (d)(1), the words ''review, revise'' are omitted as surplus. The word ''annually'' is substituted for ''for fiscal year 1990, and for each fiscal year thereafter'' to eliminate obsolete language.

In subsection (d)(2)(B), before clause (i), the words ''an appropriation'' are substituted for ''funding'', and in clause (ii), the word ''appropriations'' is substituted for ''funding'', for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (d)(3), the words ''beginning with the date of transmission of the first aviation research plan as required by paragraph (1)'' are omitted as obsolete.

REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (c)(2)(B)(vi), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§ 3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

AMENDMENTS

2000—Subsec. (c)(2)(B)(iv) to (vi). Pub. L. 106–181, § 902(a)(1), added cls. (iv) and (vi) and redesignated former cl. (iv) as (v).

Subsec. (c)(3). Pub. L. 106–181, § 902(a)(2), inserted at end ''The report shall be prepared in accordance with requirements of section 1116 of title 31.''

1996—Subsec. (c)(1). Pub. L. 104–287 substituted ''Committee on Science'' for ''Committee on Science, Space, and Technology''.

Subsec. (c)(2)(A). Pub. L. 104–264, § 1105(1), substituted ''5-year period'' for ''15-year period''.

Subsec. (c)(2)(B). Pub. L. 104–264, § 1105(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) set out the requirements for research plans including specific requirements for the first two years of the plan, for the 3rd, 4th, and 5th years, and for the 6th and subsequent years.

Subsec. (c)(3). Pub. L. 104–264, § 1105(3), inserted '', including a description of the dissemination to the private sector of research results and a description of any new technologies developed'' after ''during the prior fiscal year''.

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of

House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 44502. General facilities and personnel authority

(a) GENERAL AUTHORITY.—(1) The Administrator of the Federal Aviation Administration may—

(A) acquire, establish, improve, operate, and maintain air navigation facilities; and

(B) provide facilities and personnel to regulate and protect air traffic.

(2) The cost of site preparation work associated with acquiring, establishing, or improving an air navigation facility under paragraph (1)(A) of this subsection shall be charged to amounts available for that purpose appropriated under section 48101(a) of this title. The Secretary of Transportation may make an agreement with an airport owner or sponsor (as defined in section 47102 of this title) so that the owner or sponsor will provide the work and be paid or reimbursed by the Secretary from the appropriated amounts.

(3) The Secretary of Transportation may authorize a department, agency, or instrumentality of the United States Government to carry out any duty or power under this subsection with the consent of the head of the department, agency, or instrumentality.

(4) PURCHASE OF INSTRUMENT LANDING SYSTEM.—

(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall purchase precision approach instrument landing system equipment for installation at airports on an expedited basis.

(B) AUTHORIZATION.—No less than $30,000,000 of the amounts appropriated under section 48101(a) for each of fiscal years 2000 through 2002 shall be used for the purpose of carrying out this paragraph, including acquisition under new or existing contracts, site preparation work, installation, and related expenditures.

(5) IMPROVEMENTS ON LEASED PROPERTIES.—The Administrator may make improvements to real property leased for no or nominal consideration for an air navigation facility, regardless of whether the cost of making the improvements exceeds the cost of leasing the real property, if—

(A) the improvements primarily benefit the Government;

(B) the improvements are essential for accomplishment of the mission of the Federal Aviation Administration; and

(C) the interest of the United States Government in the improvements is protected.

(b) CERTIFICATION OF NECESSITY.—Except for Government money expended under this part or for a military purpose, Government money may be expended to acquire, establish, construct, operate, repair, alter, or maintain an air navigation facility only if the Administrator of the Federal Aviation Administration certifies in writing that the facility is reasonably necessary for use in air commerce or for the national defense. An interested person may apply for a certificate for a facility to be acquired, established, constructed, operated, repaired, altered, or maintained by or for the person.

(c) ENSURING CONFORMITY WITH PLANS AND POLICIES.—(1) To ensure conformity with plans and policies for, and allocation of, airspace by the Administrator of the Federal Aviation Administration under section 40103(b)(1) of this title, a military airport, military landing area, or missile or rocket site may be acquired, established, or constructed, or a runway may be altered substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator of the Federal Aviation Administration may advise the appropriate committees of Congress and interested departments, agencies, and instrumentalities of the Government on the effect of the acquisition, establishment, construction, or alteration on the use of airspace by aircraft. A disagreement between the Administrator of the Federal Aviation Administration and the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration may be appealed to the President for a final decision.

(2) To ensure conformity, an airport or landing area not involving the expenditure of Government money may be established or constructed, or a runway may be altered substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator may provide advice on the effects of the establishment, construction, or alteration on the use of airspace by aircraft.

(d) PUBLIC USE AND EMERGENCY ASSISTANCE.—(1) The head of a department, agency, or instrumentality of the Government having jurisdiction over an air navigation facility owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for public use of the facility.

(2) The head of a department, agency, or instrumentality of the Government having jurisdiction over an airport or emergency landing field owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for assistance, and the sale of fuel, oil, equipment, and supplies, to an aircraft, but only when necessary, because of an emergency, to allow the aircraft to continue to the nearest airport operated by private enterprise. The head of the department, agency, or instrumentality shall provide for the assistance and sale at the prevailing local fair market value as determined by the head of the department, agency, or instrumentality. An amount that the head decides is equal to the cost of the assistance provided and the fuel, oil, equipment, and supplies sold

shall be credited to the appropriation from which the cost was paid. The balance shall be credited to miscellaneous receipts.

(e) TRANSFERS OF INSTRUMENT LANDING SYSTEMS.—An airport may transfer, without consideration, to the Administrator of the Federal Aviation Administration an instrument landing system (and associated approach lighting equipment and runway visual range equipment) that conforms to performance specifications of the Administrator if a Government airport aid program, airport development aid program, or airport improvement project grant was used to assist in purchasing the system. The Administrator shall accept the system and operate and maintain it under criteria of the Administrator.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1175; Pub. L. 103–305, title I, § 120(a), Aug. 23, 1994, 108 Stat. 1581; Pub. L. 103–429, § 6(54), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–287, § 5(75), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 106–181, title I, § 153, title VII, § 712, Apr. 5, 2000, 114 Stat. 87, 160.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44502(a)(1) ..	49 App.:1348(b) (1st sentence less cl. (3)).	Aug. 23, 1958, Pub. L. 85–726, § 307(b) (1st sentence less cl. (3), 2d sentence), 72 Stat. 750; Jan. 12, 1983, Pub. L. 97–449, § 4(c), 96 Stat. 2442.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44502(a)(2) ..	49 App.:2205(a)(3).	Sept. 3, 1982, Pub. L. 97–248, § 506(a)(3), 96 Stat. 677; Dec. 30, 1987, Pub. L. 100–223, § 105(a)(1), (g)(1), 101 Stat. 1489, 1494.
44502(a)(3) ..	49 App.:1348(b) (2d sentence).	
44502(b)	49 App.:1349(a) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, §§ 308(a) (1st, 2d sentences), (b), 309, 1107, 72 Stat. 750, 751, 798.
	49 App.:1655(c)(1).	
44502(c)(1) ..	49 App.:1349(b).	
	49 App.:1655(c)(1).	
44502(c)(2) ..	49 App.:1350.	
	49 App.:1655(c)(1).	
44502(d)	49 App.:1507.	
44502(e)	49 App.:1743.	Aug. 11, 1959, Pub. L. 86–154, 73 Stat. 333.
44502(f)	49 App.:2205 (notes).	Nov. 21, 1989, Pub. L. 101–164, § 331, 103 Stat. 1097. Nov. 5, 1990, Pub. L. 101–516, § 324, 104 Stat. 2182. Oct. 28, 1991, Pub. L. 102–143, § 324, 105 Stat. 943. Oct. 6, 1992, Pub. L. 102–388, § 324, 106 Stat. 1547.

In this section, the words ''department, agency, or instrumentality of the United States Government'' are substituted for ''Federal department or agency'' in 49 App.:1348(b), ''agencies'' in 49 App.:1349(b), and ''department or other agency'' and ''Government department or other agency'' in 49 App.:1507 for consistency in the revised title and with other titles of the United States Code.

In subsections (a)(1), (b), and (c), the word ''Administrator'' in sections 303(c) (1st sentence), 307(b), 308(a) (1st and 2d sentences) and (b), and 309 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750, 751) is retained on authority of 49:106(g).

In subsection (a)(1), before clause (A), the words ''within the limits of available appropriations made by the Congress'' are omitted as surplus. In clause (A), the words ''wherever necessary'' are omitted as surplus. In clause (B), the word ''necessary'' is omitted as surplus.

In subsection (a)(2), the words ''by the Secretary'' and ''to the Secretary'' are omitted as surplus. The last sentence is substituted for 49 App.:2205(a)(3) (last sentence) to eliminate unnecessary words.

In subsection (a)(3), the words ''subject to such regulations, supervision, and review as he may prescribe'' are omitted because of 49:322(a). The words ''from time to time make such provision as he shall deem appropriate'' are omitted as surplus. The words ''duty or power'' are substituted for ''function'' for consistency in the revised title and with other titles of the Code. The words ''the head of'' are added for clarity and consistency.

In subsection (b), the words ''(whether or not in cooperation with State or other local governmental agencies)'' and ''thereon'' are omitted as surplus. The words ''landing area'' are omitted as being included in the definition of ''air navigation facility'' in section 40102(a) of the revised title. The words ''recommendation and'' are omitted as surplus. The words ''under regulations prescribed by him'' are omitted because of 49:322(a). The word ''proposed'' is omitted as surplus. The word ''acquired'' is added for consistency in this subsection.

In subsection (c)(1), the words ''In order'', ''layout'', and ''In case of . . . the matter'' are omitted as surplus. The words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:133(a). The words ''the Administrator of'' are added because of 42:2472(a).

In subsection (c)(2), the word ''layout'' is omitted as surplus. The words ''pursuant to regulations prescribed by him'' are omitted because of 49:322(a). The words ''the establishment, building, or alteration'' are substituted for ''such construction'' for clarity and consistency in this section.

In subsection (d)(1), the words ''under such conditions and to such extent as . . . deems advisable and'' are omitted as surplus. The word ''provide'' is substituted for ''be made available'', and the words ''of the facility'' are added, for clarity.

In subsection (d)(2), the words ''All amounts received under this subsection shall be covered into the Treasury'' are omitted because of 31:3302(b). The words ''services, shelter . . . other'' and ''if any'' are omitted as surplus.

In subsection (e), the words ''or compact'' are omitted as surplus. The words ''or States'' are omitted because of 1:1. The text of 49 App.:1743 (last sentence) is omitted as surplus.

In subsection (f), the words ''Notwithstanding any other provision of law'' and ''thereafter'' are omitted as surplus.

PUB. L. 103–429

This amends 49:44502(b) to clarify the restatement of 49 App.:1349(a) (1st, 2d sentences) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1175).

PUB. L. 104–287, § 5(75)(A)

This amends 49:44502(c)(1) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1175).

PUB. L. 104–287, § 5(75)(B)

This strikes 49:44502(e) and redesignates 49:44502(f) as 49:44502(e) because of the restatement of former 49:44502(e) as 49:40121.

AMENDMENTS

2000—Subsec. (a)(4)(B). Pub. L. 106–181, § 153, substituted ''each of fiscal years 2000 through 2002'' for ''each of fiscal years 1995 and 1996'' and inserted ''under new or existing contracts'' after ''including acquisition''.

Subsec. (a)(5). Pub. L. 106–181, § 712, added par. (5).

1996—Subsec. (c)(1). Pub. L. 104–287, § 5(75)(A), substituted ''To ensure'' for ''To ensure that''.

Subsecs. (e), (f). Pub. L. 104–287, § 5(75)(B), redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows:

''(e) CONSENT OF CONGRESS.—Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.''

1994—Subsec. (a)(4). Pub. L. 103–305 added par. (4).

Subsec. (b). Pub. L. 103–429 inserted ''Government'' before ''money may be expended''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

PILOT PROGRAM FOR INNOVATIVE FINANCING OF AIR TRAFFIC CONTROL EQUIPMENT

Pub. L. 108–176, title I, § 182, Dec. 12, 2003, 117 Stat. 2515, provided that:

''(a) IN GENERAL.—In order to test the cost effectiveness and feasibility of long-term financing of modernization of major air traffic control systems, the Administrator of the Federal Aviation Administration may establish a pilot program to test innovative financing techniques through amending, subject to section 1341 of title 31, United States Code, a contract for more than one, but not more than 20, fiscal years to purchase and install air traffic control equipment for the Administration. Such amendments may be for more than one, but not more than 10, fiscal years.

''(b) CANCELLATION.—A contract described in subsection (a) may include a cancellation provision if the Administrator determines that such a provision is necessary and in the best interest of the United States. Any such provision shall include a cancellation liability schedule that covers reasonable and allocable costs incurred by the contractor through the date of cancellation plus reasonable profit, if any, on those costs. Any such provision shall not apply if the contract is terminated by default of the contractor.

''(c) CONTRACT PROVISIONS.—If feasible and practicable for the pilot program, the Administrator may make an advance contract provision to achieve economic-lot purchases and more efficient production rates.

''(d) LIMITATION.—The Administrator may not amend a contract under this section until the program for the terminal automation replacement systems has been rebaselined in accordance with the acquisition management system of the Administration.

''(e) ANNUAL REPORTS.—At the end of each fiscal year during the term of the pilot program, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on how the Administrator has implemented in such fiscal year the pilot program, the number and types of contracts or contract amendments that are entered into under the program, and the program's cost effectiveness.

''(f) FUNDING.—Out of amounts appropriated under section 48101 [probably means section 48101 of title 49, United States Code] for fiscal year 2004, such sums as may be necessary shall be available to carry out this section.''

ENHANCED VISION TECHNOLOGIES

Pub. L. 106–181, title I, § 124, Apr. 5, 2000, 114 Stat. 75, provided that:

''(a) STUDY.—The Administrator [of the Federal Aviation Administration] shall enter into a cooperative research and development agreement to study the benefits of utilizing enhanced vision technologies to replace, enhance, or add to conventional airport approach and runway lighting systems.

''(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit to Congress a progress report on the work accomplished under the cooperative agreements detailing the evaluations performed to determine the potential of enhanced vision technology to meet the operational requirements of the intended application.

''(c) CERTIFICATION.—Not later than 180 days after the conclusion of work under the research agreements, the Administrator shall transmit to Congress a report on the potential of enhanced vision technology to satisfy the operational requirements of the Federal Aviation Administration and a schedule for the development of performance standards for certification appropriate to the application of the enhanced vision technologies. If the Administrator certifies an enhanced vision technology as meeting such performance standards, the technology shall be treated as a navigation aid or other aid for purposes of section 47102(3)(B)(i) of title 49, United States Code.''

TRANSFER BY AIRPORTS OF INSTRUMENT LANDING SYSTEMS AND ASSOCIATED EQUIPMENT TO FEDERAL AVIATION ADMINISTRATION

Pub. L. 109–115, div. A, title I, § 101, Nov. 30, 2005, 119 Stat. 2401, which provided that airports may transfer to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant, provided that the FAA accept such equipment and operate and maintain it in accordance with agency criteria, was from the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–447, div. H, title I, § 101, Dec. 8, 2004, 118 Stat. 3203.

Pub. L. 108–199, div. F, title I, § 101, Jan. 23, 2004, 118 Stat. 284.

Pub. L. 108–7, div. I, title III, § 313, Feb. 20, 2003, 117 Stat. 410.

Pub. L. 107–87, title III, § 313, Dec. 18, 2001, 115 Stat. 858.

Pub. L. 106–346, § 101(a) [title III, § 314], Oct. 23, 2000, 114 Stat. 1356, 1356A–27.

Pub. L. 106–69, title III, § 314, Oct. 9, 1999, 113 Stat. 1018.

Pub. L. 105–277, div. A, § 101(g) [title III, § 314], Oct. 21, 1998, 112 Stat. 2681–439, 2681–468.

Pub. L. 105–66, title III, § 314, Oct. 27, 1997, 111 Stat. 1443.

Pub. L. 104–205, title III, § 314, Sept. 30, 1996, 110 Stat. 2971.

Pub. L. 104–50, title III, § 317, Nov. 15, 1995, 109 Stat. 455.

Pub. L. 103–331, title III, § 317, Sept. 30, 1994, 108 Stat. 2491, repealed by Pub. L. 104–287, § 7(4), Oct. 11, 1996, 110 Stat. 3400.

COST SAVINGS ASSOCIATED WITH PURCHASE

Section 120(b) of Pub. L. 103–305 provided that: ''Notwithstanding other provisions of law or regulations to the contrary, the Administrator [of the Federal Aviation Administration] shall establish, within 120 days after the date of the enactment of this Act [Aug. 23, 1994], a process through which airport sponsors may take advantage of cost savings associated with the purchase and installation of instrument landing systems, along with associated equipment, under existing or future Federal Aviation Administration contracts. The process established by the Administrator may provide for the direct reimbursement (including administrative costs) of the Administrator by an airport sponsor using

grants funds under subchapter I of chapter 471 of subtitle VII of title 49, United States Code, relating to airport improvement, for the ordering of such equipment and installation or for the direct ordering of such equipment and installation by an airport sponsor, using such grant funds, from the suppliers with which the Administrator has contracted.''

GRANDFATHER PROVISION FOR FAA DEMONSTRATION PROJECT

Pub. L. 103–260, title IV, § 401, May 26, 1994, 108 Stat. 702, provided that:

''(a) IN GENERAL.—Notwithstanding the termination of the personnel demonstration project for certain Federal Aviation Administration employees on June 17, 1994, pursuant to section 4703 of title 5, United States Code, the Federal Aviation Administration, subject to subsection (d), shall continue to pay quarterly retention allowance payments in accordance with subsection (b) to those employees who are entitled to quarterly retention allowance payments under the demonstration project as of June 16, 1994.

''(b) COMPUTATION RULES.—

''(1) IN GENERAL.—The amount of each quarterly retention allowance payment to which an employee is entitled under subsection (a) shall be the amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994, reduced by that portion of the amount of any increase in the employee's annual rate of basic pay subsequent to June 17, 1994, from any source, which is allocable to the quarter for which the allowance is to be paid (or, if applicable, to that portion of the quarter for which the allowance is to be paid). For purposes of the preceding sentence, the increase in an employee's annual rate of basic pay includes—

''(A) any increase under section 5303 of title 5, United States Code;

''(B) any increase in locality-based comparability payments under section 5304 of such title 5 (except if, or to the extent that, such increase is offset by a reduction of an interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5304 note));

''(C) any establishment or increase in a special rate of pay under section 5305 of such title 5;

''(D) any increase in basic pay pursuant to a promotion under section 5334 of such title 5;

''(E) any periodic step-increase under section 5335 of such title 5;

''(F) any additional step-increase under section 5336 of such title 5; and

''(G) any other increase in annual rate of basic pay under any other provision of law.

''(2) SECTION RULE.—In the case of an employee on leave without pay or other similar status for any part of the quarter prior to June 17, 1994, based on which the amount of the allowance payments for such employee under subsection (a) are computed, the 'amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994' shall, for purposes of paragraph (1), be deemed to be the amount of the allowance which would have been payable to such employee for such quarter under such project had such employee been in pay status throughout such quarter.

''(c) TERMINATION.—An employee's entitlement to quarterly retention allowance payments under this section shall cease when—

''(1) the amount of such allowance is reduced to zero under subsection (b), or

''(2) the employee separates or moves to a position in which the employee would not, prior to June 17, 1994, have been entitled to receive an allowance under the demonstration project,

whichever is earlier.

''(d) SPECIAL PAYMENT RULE.—The Administrator of the Federal Aviation Administration may make payment for the costs incurred under the program established by subsection (a) for the period between June 18, 1994, and September 30, 1994, following the end of the first full pay period that begins on or after October 1, 1994, subject to appropriations made available in fiscal year 1995.

''(e) STUDY OF RECRUITMENT AND RETENTION INCENTIVES.—The Administrator of the Federal Aviation Administration shall conduct a study of impediments that may exist to achieving appropriate air traffic controller staffing levels at hard-to-staff facilities. In conducting such study, the Administrator shall identify and evaluate the extent to which special incentives, of a financial or non-financial nature, could be useful in recruiting or retaining air traffic controllers at such facilities. The Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 180 days after the date of enactment of this Act [May 26, 1994] a report on (1) the results of such study, (2) planned administrative actions, and (3) any recommended legislation.''

§ 44503. Reducing nonessential expenditures

The Secretary of Transportation shall attempt to reduce the capital, operating, maintenance, and administrative costs of the national airport and airway system to the maximum extent practicable consistent with the highest degree of aviation safety. At least annually, the Secretary shall consult with and consider the recommendations of users of the system on ways to reduce nonessential expenditures of the United States Government for aviation. The Secretary shall give particular attention to a recommendation that may reduce, with no adverse effect on safety, future personnel requirements and costs to the Government required to be recovered from user charges.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1176.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44503	49 App.:1704.	July 12, 1976, Pub. L. 94–353, § 25, 90 Stat. 885.

The words ''in accordance with this section'' and ''due'' are omitted as surplus. The word ''personnel'' is substituted for ''manpower'' for consistency in the revised title.

§ 44504. Improved aircraft, aircraft engines, propellers, and appliances

(a) DEVELOPMENTAL WORK AND SERVICE TESTING.—The Administrator of the Federal Aviation Administration may conduct or supervise developmental work and service testing to improve aircraft, aircraft engines, propellers, and appliances.

(b) RESEARCH.—The Administrator shall conduct or supervise research—

(1) to develop technologies and analyze information to predict the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft, including nonstructural aircraft systems, and air safety;

(2) to develop methods of analyzing and improving aircraft maintenance technology and practices, including nondestructive evaluation of aircraft structures;

(3) to assess the fire and smoke resistance of aircraft material;

(4) to develop improved fire and smoke resistant material for aircraft interiors;

(5) to develop and improve fire and smoke containment systems for inflight aircraft fires;

(6) to develop advanced aircraft fuels with low flammability and technologies that will contain aircraft fuels to minimize post-crash fire hazards; and

(7) 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 that could result in a catastrophic failure of an aircraft.

(c) AUTHORITY TO BUY ITEMS OFFERING SPECIAL ADVANTAGES.—In carrying out this section, the Administrator, by negotiation or otherwise, may buy or exchange experimental aircraft, aircraft engines, propellers, and appliances that the Administrator decides may offer special advantages to aeronautics.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1176; Pub. L. 106–181, title IX, § 904, Apr. 5, 2000, 114 Stat. 196.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44504(a)	49 App.:1353(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 312(b) (1st, last sentences), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44504(b)	49 App.:1353(b) (2d sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(b) (2d sentence); added Nov. 3, 1988, Pub. L. 100–591, § 2, 102 Stat. 3011; Nov. 5, 1990, Pub. L. 101–508, § 9208(a), 104 Stat. 1388–376.
44504(c)	49 App.:1353(b) (last sentence) 49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 312(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g).

In subsection (a), the words ''to improve'' are substituted for ''such . . . as tends to the creation of improved'' to eliminate unnecessary words.

AMENDMENTS

2000—Subsec. (b)(1). Pub. L. 106–181 inserted '', including nonstructural aircraft systems,'' after ''life of aircraft''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

FAA CENTER FOR EXCELLENCE FOR APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT

Pub. L. 108–176, title VII, § 708, Dec. 12, 2003, 117 Stat. 2582, provided that:

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall develop a Center for Excellence focused on applied research and training on the durability and maintainability of advanced materials in transport airframe structures. The Center shall—

''(1) promote and facilitate collaboration among academia, the Federal Aviation Administration's Transportation Division, and the commercial aircraft industry, including manufacturers, commercial air carriers, and suppliers; and

''(2) establish goals set to advance technology, improve engineering practices, and facilitate continuing education in relevant areas of study.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $500,000 for fiscal year 2004 to carry out this section.''

ROTORCRAFT RESEARCH AND DEVELOPMENT INITIATIVE

Pub. L. 108–176, title VII, § 711, Dec. 12, 2003, 117 Stat. 2585, provided that:

''(a) OBJECTIVE.—The Administrator of the Federal Aviation Administration shall establish a rotorcraft initiative with the objective of developing, and demonstrating in a relevant environment, within 10 years after the date of the enactment of this Act [Dec. 12, 2003], technologies to enable rotorcraft with the following improvements relative to rotorcraft existing as of the date of the enactment of this Act:

''(1) 80 percent reduction in noise levels on takeoff and on approach and landing as perceived by a human observer.

''(2) Factor of 10 reduction in vibration.

''(3) 30 percent reduction in empty weight.

''(4) Predicted accident rate equivalent to that of fixed-wing aircraft in commercial service within 10 years after the date of the enactment of this Act.

''(5) Capability for zero-ceiling, zero-visibility operations.

''(b) IMPLEMENTATION.—Within 180 days after the date of the enactment of this Act [Dec. 12, 2003], the Administrator of the Federal Aviation Administration, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall provide a plan to the Committee on Science [now Committee on Science and Technology] of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate for the implementation of the initiative described in subsection (a).''

SPECIALTY METALS CONSORTIUM

Pub. L. 106–181, title VII, § 742, Apr. 5, 2000, 114 Stat. 175, provided that:

''(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] may work with a consortium of domestic metal producers and aircraft engine manufacturers to improve the quality of turbine engine materials and to address melting technology enhancements.

''(b) REPORT.—Not later than 6 months after entering into an agreement with a consortium described in subsection (a), the Administrator shall transmit to Congress a report on the goals and efforts of the consortium.''

§ 44505. Systems, procedures, facilities, and devices

(a) GENERAL REQUIREMENTS.—(1) The Administrator of the Federal Aviation Administration shall—

(A) develop, alter, test, and evaluate systems, procedures, facilities, and devices, and define their performance characteristics, to meet the needs for safe and efficient navigation and traffic control of civil and military aviation, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern; and

(B) select systems, procedures, facilities, and devices that will best serve those needs and promote maximum coordination of air traffic control and air defense systems.

(2) The Administrator may make contracts to carry out this subsection without regard to section 3324(a) and (b) of title 31.

(3) When a substantial question exists under paragraph (1) of this subsection about whether a matter is of primary concern to the armed forces, the Administrator shall decide whether the Administrator or the Secretary of the appropriate military department has responsibility. The Administrator shall be given technical information related to each research and development project of the armed forces that potentially applies to, or potentially conflicts with, the common system to ensure that potential application to the common system is considered properly and that potential conflicts with the system are eliminated.

(b) RESEARCH ON HUMAN FACTORS AND SIMULATION MODELS.—The Administrator shall conduct or supervise research—

(1) to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety;

(2) to enhance air traffic controller, mechanic, and flight crew performance;

(3) to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews;

(4) to identify innovative and effective corrective measures for human errors that adversely affect air safety; and

(5) to develop dynamic simulation models of the air traffic control system and airport design and operating procedures that will provide analytical technology—

(A) to predict airport and air traffic control safety and capacity problems;

(B) to evaluate planned research projects; and

(C) to test proposed revisions in airport and air traffic control operations programs.

(c) RESEARCH ON DEVELOPING AND MAINTAINING A SAFE AND EFFICIENT SYSTEM.—The Administrator shall conduct or supervise research on—

(1) airspace and airport planning and design;

(2) airport capacity enhancement techniques;

(3) human performance in the air transportation environment;

(4) aviation safety and security;

(5) the supply of trained air transportation personnel, including pilots and mechanics; and

(6) other aviation issues related to developing and maintaining a safe and efficient air transportation system.

(d) COOPERATIVE AGREEMENTS.—The Administrator may enter into cooperative agreements on a cost-shared basis with Federal and non-Federal entities that the Administrator may select in order to conduct, encourage, and promote aviation research, engineering, and development, including the development of prototypes and demonstration models.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1177; Pub. L. 103–305, title III, § 307, Aug. 23, 1994, 108 Stat. 1593.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44505(a)(1) ..	49 App.:1353(c) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 312(c) (1st, 5th–last sentences), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44505(a)(2) ..	49 App.:1353(c) (5th sentence).	
	49 App.:1655(c)(1).	
44505(a)(3) ..	49 App.:1353(c) (6th, last sentences).	
	49 App.:1655(c)(1).	
44505(b)	49 App.:1353(c) (2d, 3d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(c) (2d, 3d sentences); added Nov. 3, 1988, Pub. L. 100–591, § 3, 102 Stat. 3011.
44505(c)	49 App.:1353(c) (4th sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(c) (4th sentence); added Nov. 5, 1990, Pub. L. 101–508, § 9209(c), 104 Stat. 1388–378.

In this section, the word ''Administrator'' in section 312(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g).

In subsection (a)(1) and (3), the words ''the armed forces'' are substituted for ''military agencies'' and ''the military'' because of the definition of ''armed forces'' in 10:101.

In subsection (a)(3), the words ''military department'' are substituted for ''military agency'' because of the definition of ''military department'' in 10:101. The words ''the needs of'' and ''to the maximum extent necessary'' are omitted as surplus.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–305 added subsec. (d).

ASSESSMENT OF WAKE TURBULENCE RESEARCH AND DEVELOPMENT PROGRAM

Pub. L. 108–176, title V, § 505, Dec. 12, 2003, 117 Stat. 2559, required the Administrator of the Federal Aviation Administration to enter into an arrangement with the National Research Council for an assessment of the Federal Aviation Administration's proposed wake turbulence research and development program and required that a report on the assessment be provided to Committees of Congress not later than 1 year after Dec. 12, 2003.

ENSURING APPROPRIATE STANDARDS FOR AIRFIELD PAVEMENTS

Pub. L. 108–176, title VII, § 705, Dec. 12, 2003, 117 Stat. 2581, provided that:

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall review and determine whether the Federal Aviation Administration's standards used to determine the appropriate thickness for asphalt and concrete airfield pavements are in accordance with the Federal Aviation Administration's standard 20-year-life requirement using the most up-to-date available information on the life of airfield pavements. If the Administrator determines that such standards are not in accordance with that requirement, the Administrator shall make appropriate adjustments to the Federal Aviation Administration's standards for airfield pavements.

''(b) REPORT.—Within 1 year after the date of enactment of this Act [Dec. 12, 2003], the Administrator shall report the results of the review conducted under subsection (a) and the adjustments, if any, made on the basis of that review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Science [now Committee on Science and Technology].''

USE OF RECYCLED MATERIALS

Pub. L. 106–181, title I, § 157, Apr. 5, 2000, 114 Stat. 89, provided that:

''(a) STUDY.—The Administrator [of the Federal Aviation Administration] shall conduct a study of the use of

recycled materials (including recycled pavements, waste materials, and byproducts) in pavement used for runways, taxiways, and aprons and the specification standards in tests necessary for the use of recycled materials in such pavement. The primary focus of the study shall be on the long-term physical performance, safety implications, and environmental benefits of using recycled materials in aviation pavement.

''(b) CONTRACTING.—The Administrator may carry out the study by entering into a contract with a university of higher education with expertise necessary to carry out the study.

''(c) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit to Congress a report on the results of the study, together with recommendations concerning the use of recycled materials in aviation pavement.

''(d) FUNDING.—Of the amounts appropriated pursuant to section 106(k) of title 49, United States Code, not to exceed $1,500,000 may be used to carry out this section.''

AIRFIELD PAVEMENT CONDITIONS

Pub. L. 106–181, title I, § 160, Apr. 5, 2000, 114 Stat. 90, provided that:

''(a) EVALUATION OF OPTIONS.—The Administrator [of the Federal Aviation Administration] shall evaluate options for improving the quality of information available to the Federal Aviation Administration on airfield pavement conditions for airports that are part of the national air transportation system, including—

''(1) improving the existing runway condition information contained in the airport safety data program by reviewing and revising rating criteria and providing increased training for inspectors;

''(2) requiring such airports to submit pavement condition index information as part of their airport master plan or as support in applications for airport improvement grants; and

''(3) requiring all such airports to submit pavement condition index information on a regular basis and using this information to create a pavement condition database that could be used in evaluating the cost-effectiveness of project applications and forecasting anticipated pavement needs.

''(b) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit a report containing an evaluation of the options described in subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.''

PILOT PROGRAM TO PERMIT COST-SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS

Pub. L. 106–181, title III, § 304, Apr. 5, 2000, 114 Stat. 122, provided that:

''(a) PURPOSE.—It is the purpose of this section to improve aviation safety and enhance mobility of the Nation's air transportation system by encouraging non-Federal investment on a pilot program basis in critical air traffic control facilities and equipment.

''(b) IN GENERAL.—Subject to the requirements of this section, the Secretary [of Transportation] shall carry out a pilot program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects.

''(c) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117 of title 49, United States Code.

''(d) LIMITATION ON GRANT AMOUNTS.—No eligible project may receive more than $15,000,000 under the program.

''(e) FUNDING.—The Secretary shall use amounts appropriated under section 48101(a) of title 49, United States Code, for fiscal years 2001 through 2003 to carry out the program.

''(f) DEFINITIONS.—In this section, the following definitions apply:

''(1) ELIGIBLE PROJECT.—The term 'eligible project' means a project relating to the Nation's air traffic control system that is certified or approved by the Administrator [of the Federal Aviation Administration] and that promotes safety, efficiency, or mobility. Such projects may include—

''(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landings systems, weather and wind shear detection equipment, lighting improvements, and control towers;

''(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

''(C) facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and offshore flight tracking.

''(2) PROJECT SPONSOR.—The term 'project sponsor' means a public-use airport or a joint venture between a public-use airport and one or more air carriers.

''(g) TRANSFERS OF EQUIPMENT.—Notwithstanding any other provision of law, project sponsors may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, and automation tools, the purchase of which was assisted by a grant made under this section. The Administration shall accept such facilities, equipment, and automation tools, which shall thereafter be operated and maintained by the Administration in accordance with criteria of the Administration.

''(h) GUIDELINES.—Not later than 90 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall issue advisory guidelines on the implementation of the program.''

AIRCRAFT DISPATCHERS

Pub. L. 106–181, title V, § 516, Apr. 5, 2000, 114 Stat. 145, provided that:

''(a) STUDY.—The Administrator [of the Federal Aviation Administration] shall conduct a study of the role of aircraft dispatchers in enhancing aviation safety.

''(b) CONTENTS.—The study shall include an assessment of whether or not aircraft dispatchers should be required for those operations not presently requiring aircraft dispatcher assistance, operational control issues related to the aircraft dispatching functions, and whether or not designation of positions within the Federal Aviation Administration for oversight of dispatchers would enhance aviation safety.

''(c) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit to Congress a report on the results of the study conducted under this section.''

OCCUPATIONAL INJURIES OF AIRPORT WORKERS

Pub. L. 106–181, title V, § 520, Apr. 5, 2000, 114 Stat. 149, provided that:

''(a) STUDY.—The Administrator [of the Federal Aviation Administration] shall conduct a study to determine the number of persons working at airports who are injured or killed as a result of being struck by a moving vehicle while on an airport tarmac, the seriousness of the injuries to such persons, and whether or not reflective safety vests or other actions should be required to enhance the safety of such workers.

''(b) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit to Congress a report on the results of the study conducted under this section.''

ALKALI SILICA REACTIVITY DISTRESS

Pub. L. 106–181, title VII, § 743, Apr. 5, 2000, 114 Stat. 175, provided that:

''(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] may conduct a study on the impact of alkali silica reactivity distress on airport runways and taxiways and the use of lithium salts and other alternatives for mitigation and prevention of such distress. The study shall include a determination based on in-the-field inspections followed by petrographic analysis or other similar techniques.

''(b) AUTHORITY TO MAKE GRANTS.—The Administrator may carry out the study by making a grant to, or entering into a cooperative agreement with, a nonprofit organization for the conduct of all or a part of the study.

''(c) REPORT.—Not later than 18 months after the date of initiation of the study under subsection (a), the Administrator shall transmit to Congress a report on the results of the study.''

RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS

Pub. L. 108–176, title VII, § 704, Dec. 12, 2003, 117 Stat. 2581, provided that:

''(a) CONTINUATION OF PROGRAM.—The Administrator of the Federal Aviation Administration shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of airfield pavements to aid in the development of safer, more cost effective, and more durable airfield pavements.

''(b) USE OF GRANTS OR COOPERATIVE AGREEMENTS.—The Administrator may use grants or cooperative agreements in carrying out this section.

''(c) STATUTORY CONSTRUCTION.—Nothing in this section requires the Administrator to prioritize an airfield pavement research program above safety, security, Flight 21, environment, or energy research programs.''

Pub. L. 106–181, title IX, § 905, Apr. 5, 2000, 114 Stat. 196, provided that: ''The Administrator [of the Federal Aviation Administration] shall consider awards to nonprofit concrete pavement research foundations to improve the design, construction, rehabilitation, and repair of rigid concrete airfield pavements to aid in the development of safer, more cost-effective, and durable airfield pavements. The Administrator may use a grant or cooperative agreement for this purpose. Nothing in this section shall require the Administrator to prioritize an airfield pavement research program above safety, security, Flight 21, environment, or energy research programs.''

§ 44506. Air traffic controllers

(a) RESEARCH ON EFFECT OF AUTOMATION ON PERFORMANCE.—To develop the means necessary to establish appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system. The research shall include investigating—

(1) methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including the use of simulation technology;

(2) the role of automation in the air traffic control system and its physical and psychological effects on air traffic controllers;

(3) the attributes and aptitudes needed to function well in a highly automated air traffic control system and the development of appropriate testing methods for identifying individuals with those attributes and aptitudes;

(4) innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system; and

(5) new technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(b) RESEARCH ON HUMAN FACTOR ASPECTS OF AUTOMATION.—The Administrators of the Federal Aviation Administration and National Aeronautics and Space Administration may make an agreement for the use of the National Aeronautics and Space Administration's unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers. The research activities shall include investigating—

(1) human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers;

(2) information management techniques for advanced air traffic control display systems; and

(3) air traffic controller workload and performance measures, including the development of predictive models.

(c) COLLEGIATE TRAINING INITIATIVE.—(1) The Administrator of the Federal Aviation Administration may maintain the Collegiate Training Initiative program by making new agreements and continuing existing agreements with institutions of higher education (as defined by the Administrator) under which the institutions prepare students for the position of air traffic controller with the Department of Transportation (as defined in section 2109 of title 5). The Administrator may establish standards for the entry of institutions into the program and for their continued participation.

(2)(A) The Administrator of the Federal Aviation Administration may appoint an individual who has successfully completed a course of training in a program described in paragraph (1) of this subsection to the position of air traffic controller noncompetitively in the excepted service (as defined in section 2103 of title 5). An individual appointed under this paragraph serves at the pleasure of the Administrator, subject to section 7511 of title 5. However, an appointment under this paragraph may be converted from one in the excepted service to a career conditional or career appointment in the competitive civil service (as defined in section 2102 of title 5) when the individual achieves full performance level air traffic controller status, as decided by the Administrator.

(B) The authority under subparagraph (A) of this paragraph to make appointments in the excepted service expires on October 6, 1997, except that the Administrator of the Federal Aviation Administration may extend the authority for one or more successive one-year periods.

(d) STAFFING REPORT.—The Administrator of the Federal Aviation Administration shall submit annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce,

Science, and Transportation of the Senate a report containing—

(1) the staffing standards used to determine the number of air traffic controllers needed to operate the air traffic control system of the United States;

(2) a 3-year projection of the number of controllers needed to be employed to operate the system to meet the standards; and

(3) a detailed plan for employing the controllers, including projected budget requests.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1178; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44506(a), (b)	49 App.:1353 (note).	Nov. 3, 1988, Pub. L. 100–591, § 8(a)–(c), 102 Stat. 3015; Nov. 17, 1988, Pub. L. 100–685, §§ 601–603, 102 Stat. 4102.
44506(c)	49 App.:1348a.	Oct. 6, 1992, Pub. L. 102–388, § 362, 106 Stat. 1560.
44506(d)	49 App.:1348 (note).	Oct. 31, 1992, Pub. L. 102–581, § 120, 106 Stat. 4884.

In subsections (a) and (b), the text of section 8(a) and (b)(3) of the Aviation Safety Research Act of 1988 (Public Law 100–581, 102 Stat. 3015, 3016) and sections 601 and 602(3) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (Public Law 100–685, 102 Stat. 4102, 4103) is omitted as executed.

In subsection (c), the words ''institutions of higher education'' are substituted for ''post-secondary educational institutions'' for consistency in the revised title.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

CONTROLLER STAFFING

Pub. L. 110–161, div. K, title I, Dec. 26, 2007, 121 Stat. 2378, provided in part: ''That not later than March 31 of each fiscal year hereafter, the Administrator of the Federal Aviation Administration shall transmit to Congress an annual update to the report submitted to Congress in December 2004 pursuant to section 221 of Public Law 108–176 [set out below]''.

Pub. L. 108–176, title II, § 221, Dec. 12, 2003, 117 Stat. 2526, provided that:

''(a) ANNUAL REPORT.—Beginning with the submission of the Budget of the United States to the Congress for fiscal year 2005, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that describes the overall air traffic controller staffing plan, including strategies to address anticipated retirement and replacement of air traffic controllers.

''(b) HUMAN CAPITAL WORKFORCE STRATEGY.—

''(1) DEVELOPMENT.—The Administrator shall develop a comprehensive human capital workforce strategy to determine the most effective method for addressing the need for more air traffic controllers that is identified in the June 2002 report of the General Accounting Office [now Government Accountability Office].

''(2) COMPLETION DATE.—Not later than 1 year after the date of enactment of this Act [Dec. 12, 2003], the Administrator shall complete development of the strategy.

''(3) REPORT.—Not later than 30 days after the date on which the strategy is completed, the Administrator shall transmit to Congress a report describing the strategy.''

§ 44507. Civil aeromedical research

The Civil Aeromedical Institute established by section 106(j) of this title may—

(1) conduct civil aeromedical research, including research related to—

(A) the 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 individuals involved in operating and maintaining 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) make comments to the Administrator of the Federal Aviation Administration on human factors aspects of proposed air safety regulations;

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

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

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

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1179.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44507	49 App.:1353(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(e); added Nov. 3, 1988, Pub. L. 100–591, § 5(b), 102 Stat. 3013.

In clause (4), the words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''Government agencies'' for consistency in the revised title and with other titles of the United States Code.

§ 44508. Research advisory committee

(a) ESTABLISHMENT AND DUTIES.—(1) There is a research advisory committee in the Federal Aviation Administration. The committee shall—

(A) provide advice and recommendations to the Administrator of the Federal Aviation Administration about needs, objectives, plans, approaches, content, and accomplishments of the aviation research program carried out

under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title;

(B) assist in ensuring that the research is coordinated with similar research being conducted outside the Administration;

(C) review the operations of the regional centers of air transportation excellence established under section 44513 of this title; and

(D) annually review the allocation made by the Administrator of the amounts authorized by section 48102(a) of this title among the major categories of research and development activities carried out by the Administration and provide advice and recommendations to the Administrator on whether such allocation is appropriate to meet the needs and objectives identified under subparagraph (A).

(2) The Administrator may establish subordinate committees to provide advice on specific areas of research conducted under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title.

(b) MEMBERS, CHAIRMAN, PAY, AND EXPENSES.—(1) The committee is composed of not more than 30 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. In appointing members of the committee, the Administrator shall ensure that the regional centers of air transportation excellence, universities, corporations, associations, consumers, and other departments, agencies, and instrumentalities of the United States Government are represented.

(2) The Administrator shall designate the chairman of the committee.

(3) A member of the committee serves without pay. However, the Administrator may allow a member, when attending meetings of the committee or a subordinate committee, expenses as authorized under section 5703 of title 5.

(c) SUPPORT STAFF, INFORMATION, AND SERVICES.—The Administrator shall provide support staff for the committee. On request of the committee, the Administrator shall provide information, administrative services, and supplies that the Administrator considers necessary for the committee to carry out its duties and powers.

(d) NONAPPLICATION.—Section 14 of the Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the committee.

(e) USE AND LIMITATION OF AMOUNTS.—(1) Not more than .1 percent of the amounts made available to conduct research under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title may be used by the Administrator to carry out this section.

(2) A limitation on amounts available for obligation by or for the committee does not apply to amounts made available to carry out this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1180; Pub. L. 104–264, title XI, § 1104, Oct. 9, 1996, 110 Stat. 3279.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44508(a)(1) ..	49 App.:1353(f)(1), (2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(f); added Nov. 3, 1988, Pub. L. 100–591, § 6, 102 Stat. 3013; Nov. 5, 1990, Pub. L. 101–508, § 9209(b), 104 Stat. 1388–377.
44508(a)(2) ..	49 App.:1353(f)(6) (last sentence).	
44508(b)	49 App.:1353(f)(3)–(5).	
44508(c)	49 App.:1353(f)(6) (1st sentence), (7).	
44508(d)	49 App.:1353(f)(8).	
44508(e)	49 App.:1353(f)(9).	

In subsection (a)(1), before clause (A), the words ''There is a'' are substituted for ''Not later than 180 days after November 3, 1988, the Administrator shall establish'' to eliminate obsolete words. In clause (C), the words ''operations of'' are substituted for ''research and training to be carried out by'' for consistency with section 44513 of the revised title.

In subsection (a)(2), the words ''to the advisory committee'' are omitted as surplus.

In subsection (b)(1), the words ''departments, agencies, and instrumentalities'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(3), the words ''travel or transportation'' are omitted as surplus.

In subsection (e), the words ''for fiscal years beginning after September 30, 1988'' are omitted as obsolete.

REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (d), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a)(1)(D). Pub. L. 104–264 added subpar. (D).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 44509. Demonstration projects

The Secretary of Transportation may carry out under this chapter demonstration projects that the Secretary considers necessary for research and development activities under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1181.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44509	49 App.:2205(b)(1).	Sept. 3, 1982, Pub. L. 97–248, § 506(b)(1), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, § 105(b)(1), 101 Stat. 1490.

§ 44510. Airway science curriculum grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make competitive grant agreements with institutions of higher education having airway science curricula for the United States Govern-

ment's share of the allowable direct costs of the following categories of items to the extent that the items are in support of airway science curricula:

(1) the construction, purchase, or lease with an option to purchase, of buildings and associated facilities.

(2) instructional material and equipment.

(b) COST GUIDELINES.—The Administrator shall establish guidelines to determine the direct costs allowable under a grant to be made under this section. The Government's share of the allowable cost of a project assisted by a grant under this section may not be more than 65 percent.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1181.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44510(a)	49 App.:1354a (1st sentence).	Nov. 5, 1990, Pub. L. 101–516, (1st sentence last proviso, 3d, last sentences in par. under heading ''Facilities and Equipment''), 104 Stat. 2160. Oct. 28, 1991, Pub. L. 102–143, (1st sentence last proviso, 3d, last sentences in par. under heading ''Facilities and Equipment''), 105 Stat. 922. Oct. 6, 1992, Pub. L. 102–388, (1st sentence last proviso, 3d, last sentences in par. under heading ''Facilities and Equipment''), 106 Stat. 1525.
44510(b)	49 App.:1354a (3d, last sentences).	

In subsection (a), before clause (1), the words ''With appropriations made for the Airway Science Program, as authorized below in this section'' are omitted as unnecessary because of section 48106 of the revised title.

In subsection (b), the proviso is omitted as executed.

§ 44511. Aviation research grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education and nonprofit research organizations to conduct aviation research in areas the Administrator considers necessary for the long-term growth of civil aviation.

(b) APPLICATIONS.—An institution of higher education or nonprofit research organization interested in receiving a grant under this section may submit an application to the Administrator. The application must be in the form and contain the information the Administrator requires.

(c) SOLICITATION, REVIEW, AND EVALUATION PROCESS.—The Administrator shall establish a solicitation, review, and evaluation process that ensures—

(1) providing grants under this section for proposals having adequate merit and relevancy to the mission of the Administration;

(2) a fair geographical distribution of grants under this section; and

(3) the inclusion of historically black institutions of higher education and other minority nonprofit research organizations for grant consideration under this section.

(d) RECORDS.—Each person receiving a grant under this section shall maintain records that the Administrator requires as being necessary to facilitate an effective audit and evaluation of the use of money provided under the grant.

(e) ANNUAL REPORT.—The Administrator shall submit an annual report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on carrying out this section.

(f) AIRPORT COOPERATIVE RESEARCH PROGRAM.—

(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a 4-year pilot airport cooperative research program to—

(A) identify problems that are shared by airport operating agencies and can be solved through applied research but that are not being adequately addressed by existing Federal research programs; and

(B) fund research to address those problems.

(2) GOVERNANCE.—The Secretary of Transportation shall appoint an independent governing board for the research program established under this subsection. The governing board shall be appointed from candidates nominated by national associations representing public airport operating agencies, airport executives, State aviation officials, and the scheduled airlines, and shall include representatives of appropriate Federal agencies. Section 14 of the Federal Advisory Committee Act shall not apply to the governing board.

(3) IMPLEMENTATION.—The Secretary of Transportation shall enter into an arrangement with the National Academy of Sciences to provide staff support to the governing board established under paragraph (2) and to carry out projects proposed by the governing board that the Secretary considers appropriate.

(4) REPORT.—Not later than 6 months after the expiration of the program under this subsection, the Secretary shall transmit to the Congress a report on the program, including recommendations as to the need for establishing a permanent airport cooperative research program.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1181; Pub. L. 104–287, § 5(74), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 108–176, title VII, § 712, Dec. 12, 2003, 117 Stat. 2586.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44511	49 App.:1353(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(g); added Nov. 5, 1990, Pub. L. 101–508, § 9205(a), 104 Stat. 1388–373.

In this section, the words ''institutions of higher education'' and ''institution of higher education'' are substituted for ''colleges, universities'', ''university, college'', and ''colleges and universities'' for consistency in the revised title.

In subsection (c), the words ''providing grants'' are substituted for ''the funding'', the word ''grants'' is substituted for ''grant funds'', and the words ''grant consideration'' are substituted for ''funding consideration'', for consistency in the revised title.

In subsection (d), the words ''money provided under the grant'' are substituted for ''grant funds'' for consistency.

REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (f)(2), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2003—Subsec. (f). Pub. L. 108–176 added subsec. (f).

1996—Subsec. (e). Pub. L. 104–287 substituted ''Committee on Science'' for ''Committee on Science, Space, and Technology''.

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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.

§ 44512. Catastrophic failure prevention research grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education and nonprofit research organizations—

(1) to conduct aviation research related to the development of 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 that could result in a catastrophic failure of an aircraft; and

(2) to establish centers of excellence for continuing the research.

(b) SOLICITATION, APPLICATION, REVIEW, AND EVALUATION PROCESS.—The Administrator shall establish a solicitation, application, review, and evaluation process that ensures providing grants under this section for proposals having adequate merit and relevancy to the research described in subsection (a) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1182.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44512	49 App.:1353(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(h); added Nov. 5, 1990, Pub. L. 101–508, § 9208(b), 104 Stat. 1388–376.

In this section, the words ''institutions of higher education'' are substituted for ''colleges, universities'' for consistency in the revised title.

In subsection (b), the words ''providing grants'' are substituted for ''the funding'' for consistency in the revised title.

§ 44513. Regional centers of air transportation excellence

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education to establish and operate regional centers of air transportation excellence. The locations shall be distributed in a geographically fair way.

(b) RESPONSIBILITIES.—(1) The responsibilities of each center established under this section shall include—

(A) conducting research on—

(i) airspace and airport planning and design;

(ii) airport capacity enhancement techniques;

(iii) human performance in the air transportation environment;

(iv) aviation safety and security;

(v) the supply of trained air transportation personnel, including pilots and mechanics; and

(vi) other aviation issues related to developing and maintaining a safe and efficient air transportation system; and

(B) interpreting, publishing, and disseminating the results of the research.

(2) In conducting research described in paragraph (1)(A) of this subsection, each center may make contracts with nonprofit research organizations and other appropriate persons.

(c) APPLICATIONS.—An institution of higher education interested in receiving a grant under this section may submit an application to the Administrator. The application must be in the form and contain the information that the Administrator requires by regulation.

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

(1) 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.

(2) the demonstrated research and extension resources available to the applicant to carry out this section.

(3) the ability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

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

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

(6) the projects the applicant proposes to carry out under the grant.

(e) EXPENDITURE AGREEMENTS.—A grant may be made under this section in a fiscal year only if the recipient makes an agreement with the Administrator that the Administrator requires to ensure that the recipient will maintain its total expenditures from all other sources for establishing and operating the center and related research activities at a level at least equal to the average level of those expenditures in the 2 fiscal years of the recipient occurring immediately before November 5, 1990.

(f) GOVERNMENT'S SHARE OF COSTS.—The United States Government's share of a grant

under this section is 50 percent of the costs of establishing and operating the center and related research activities that the grant recipient carries out.

(g) ALLOCATING AMOUNTS.—The Administrator shall allocate amounts made available to carry out this section in a geographically fair way.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1182.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44513	49 App.:1353(i).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(i); added Nov. 5, 1990, Pub. L. 101–508, § 9209(a), 104 Stat. 1388–376.

In this section, the words ''institutions of higher education'' and ''institution of higher education'' are substituted for ''colleges or universities'' and ''college or university'' for consistency in the revised title.

In subsection (a), the words ''one or more'' are omitted as surplus.

§ 44514. Flight service stations

(a) HOURS OF OPERATION.—(1) The Secretary of Transportation may close, or reduce the hours of operation of, a flight service station in an area only if the service provided in the area after the closing or during the hours the station is not in operation is provided by an automated flight service station with at least model 1 equipment.

(2) The Secretary shall reopen a flight service station closed after March 24, 1987, but before July 15, 1987, as soon as practicable if the service in the area in which the station is located has not been provided since the closing by an automatic flight service station with at least model 1 equipment. The hours of operation for the reopened station shall be the same as were the hours of operation for the station on March 25, 1987. After reopening the station, the Secretary may close, or reduce the hours of operation of, the station only as provided in paragraph (1) of this subsection.

(b) MANNED AUXILIARY STATIONS.—The Secretary and the Administrator of the Federal Aviation Administration shall establish a system of manned auxiliary flight service stations. The manned auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. A manned auxiliary flight service station shall be located in an area of unique weather or operational conditions that are critical to the safety of flight.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1183.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44514(a)	49 App.:2224.	Sept. 3, 1982, Pub. L. 97–248, § 528, 96 Stat. 699; restated Dec. 30, 1987, Pub. L. 100–223, § 113, 101 Stat. 1505.
44514(b)	49 App.:1348 (notes).	Nov. 5, 1990, Pub. L. 101–508, § 9115, 104 Stat. 1388–364. Nov. 5, 1990, Pub. L. 101–516, § 330(a), 104 Stat. 2184.

In subsection (a)(1), the words ''On or after July 15, 1987'' are omitted as obsolete.

In subsection (a)(2), the words ''after December 30, 1987'' are omitted as obsolete. The words ''the date of'' are omitted as surplus.

In subsection (b), the text of section 9115(b) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–364) and section 330(a) (last sentence) of the Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101–516, 104 Stat. 2184) is omitted as obsolete.

§ 44515. Advanced training facilities for maintenance technicians for air carrier aircraft

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to not more than 4 vocational technical educational institutions to acquire or construct facilities to be used for the advanced training of maintenance technicians for air carrier aircraft.

(b) ELIGIBILITY.—The Administrator may make a grant under this section to a vocational technical educational institution only if the institution has a training curriculum that prepares aircraft maintenance technicians who hold airframe and power plant certificates under subpart D of part 65 of title 14, Code of Federal Regulations, to maintain, without direct supervision, air carrier aircraft.

(c) LIMITATION.—A vocational technical educational institution may not receive more than a total of $5,000,000 in grants under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1184.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44515	49 App.:1354 (note).	Oct., 31, 1992, Pub. L. 102–581, § 119(a)–(c), 106 Stat. 4883.

The words ''vocational technical educational institution'' are used throughout this section for consistency in this section.

IMPROVEMENT OF CURRICULUM STANDARDS FOR AVIATION MAINTENANCE TECHNICIANS

Pub. L. 108–176, title V, § 504, Dec. 12, 2003, 117 Stat. 2559, provided that:

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall ensure that the training standards for airframe and powerplant mechanics under part 65 of title 14, Code of Federal Regulations, are updated and revised in accordance with this section. The Administrator may update and revise the training standards through the initiation of a formal rulemaking or by issuing an advisory circular or other agency guidance.

''(b) ELEMENTS FOR CONSIDERATION.—The updated and revised standards required under subsection (a) shall include those curriculum adjustments that are necessary to more accurately reflect current technology and maintenance practices.

''(c) CERTIFICATION.—Any adjustment or modification of current curriculum standards made pursuant to this section shall be reflected in the certification examinations of airframe and powerplant mechanics.

''(d) COMPLETION.—The revised and updated training standards required by subsection (a) shall be completed not later than 12 months after the date of enactment of this Act [Dec. 12, 2003].

''(e) PERIODIC REVIEWS AND UPDATES.—The Administrator shall review the content of the curriculum

standards for training airframe and powerplant mechanics referred to in subsection (a) every 3 years after completion of the revised and updated training standards required under subsection (a) as necessary to reflect current technology and maintenance practices.''

IMPROVED TRAINING FOR AIRFRAME AND POWERPLANT MECHANICS

Pub. L. 106–181, title V, § 517, Apr. 5, 2000, 114 Stat. 145, provided that: ''The Administrator [of the Federal Aviation Administration] shall form a partnership with industry and labor to develop a model program to improve the curricula, teaching methods, and quality of instructors for training individuals that need certification as airframe and powerplant mechanics.''

§ 44516. Human factors program

(a) HUMAN FACTORS TRAINING.—

(1) AIR TRAFFIC CONTROLLERS.—The Administrator of the Federal Aviation Administration shall—

(A) address the problems and concerns raised by the National Research Council in its report ''The Future of Air Traffic Control'' on air traffic control automation; and

(B) respond to the recommendations made by the National Research Council.

(2) PILOTS AND FLIGHT CREWS.—The Administrator shall work with representatives of the aviation industry and appropriate aviation programs associated with universities to develop specific training curricula to address critical safety problems, including problems of pilots—

(A) in recovering from loss of control of an aircraft, including handling unusual attitudes and mechanical malfunctions;

(B) in deviating from standard operating procedures, including inappropriate responses to emergencies and hazardous weather;

(C) in awareness of altitude and location relative to terrain to prevent controlled flight into terrain; and

(D) in landing and approaches, including nonprecision approaches and go-around procedures.

(b) TEST PROGRAM.—The Administrator shall establish a test program in cooperation with air carriers to use model Jeppesen approach plates or other similar tools to improve precision-like landing approaches for aircraft.

(c) REPORT.—Not later than 1 year after the date of the enactment of this section, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the Administration's efforts to encourage the adoption and implementation of advanced qualification programs for air carriers under this section.

(d) ADVANCED QUALIFICATION PROGRAM DEFINED.—In this section, the term ''advanced qualification program'' means an alternative method for qualifying, training, certifying, and ensuring the competency of flight crews and other commercial aviation operations personnel subject to the training and evaluation requirements of parts 121 and 135 of title 14, Code of Federal Regulations.

(Added Pub. L. 106–181, title VII, § 713(a), Apr. 5, 2000, 114 Stat. 160.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 44517. Program to permit cost sharing of air traffic modernization projects

(a) IN GENERAL.—Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation's air transportation system by encouraging non-Federal investment in critical air traffic control equipment and software.

(b) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117.

(c) LIMITATION ON GRANT AMOUNTS.—No eligible project may receive more than $5,000,000 in Federal funds under the program.

(d) FUNDING.—The Secretary shall use amounts appropriated under section 48101(a) to carry out the program.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE PROJECT.—The term ''eligible project'' means a project to purchase equipment or software relating to the Nation's air traffic control system that is certified or approved by the Administrator of the Federal Aviation Administration and that promotes safety, efficiency, or mobility. Such projects may include—

(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landing systems, weather and wind shear detection equipment, and lighting improvements;

(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

(C) equipment and software that enhance airspace control procedures or assist in en route surveillance, including oceanic and offshore flight tracking.

(2) PROJECT SPONSOR.—The term ''project sponsor'' means any major user of the national airspace system, as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more air carriers.

(f) TRANSFERS OF EQUIPMENT.—Notwithstanding any other provision of law, and upon agreement by the Administrator, a project sponsor may transfer, without consideration, to the Fed-

eral Aviation Administration, facilities, equipment, or automation tools, the purchase of which was assisted by a grant made under this section, if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

(g) GUIDELINES.—The Administrator shall issue advisory guidelines on the implementation of the program. The guidelines shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5.

(Added Pub. L. 108–176, title I, § 183(a), Dec. 12, 2003, 117 Stat. 2516.)

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

CHAPTER 447—SAFETY REGULATION

Sec.
44701. General requirements.
44702. Issuance of certificates.
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44722. Aircraft operations in winter conditions.
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44724. Manipulation of flight controls.
44725. Life-limited aircraft parts.
44726. Denial and revocation of certificate for counterfeit parts violations.
44727. Runway safety areas.
44728. Flight attendant certification.
44729. Age standards for pilots.

AMENDMENTS

2007—Pub. L. 110–135, § 2(b), Dec. 13, 2007, 121 Stat. 1452, added item 44729.

2003—Pub. L. 108–176, title II, § 227(e)(2), title V, § 502(b), title VIII, § 814(b), Dec. 12, 2003, 117 Stat. 2532, 2557, 2592, substituted ''Type certificates, production certificates, airworthiness certificates, and design organization certificates'' for ''Type certificates, production certificates, and airworthiness certificates'' in item 44704 and added items 44727 and 44728.

2000—Pub. L. 106–181, title V, §§ 504(c), 505(a)(2), title VI, § 603(b), Apr. 5, 2000, 114 Stat. 134, 136, 152, substituted ''Aeronautical charts and related products and services'' for ''Aeronautical maps and charts'' in item 44721 and added items 44725 and 44726.

1996—Pub. L. 104–264, title VI, § 602(a)(2), Oct. 9, 1996, 110 Stat. 3264, added item 44724.

§ 44701. General requirements

(a) PROMOTING SAFETY.—The Administrator of the Federal Aviation Administration shall promote safe flight of civil aircraft in air commerce by prescribing—

(1) minimum standards required in the interest of safety for appliances and for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers;

(2) regulations and minimum standards in the interest of safety for—

(A) inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances;

(B) equipment and facilities for, and the timing and manner of, the inspecting, servicing, and overhauling; and

(C) a qualified private person, instead of an officer or employee of the Administration, to examine and report on the inspecting, servicing, and overhauling;

(3) regulations required in the interest of safety for the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, including the reserve supply of fuel and oil carried in flight;

(4) regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers; and

(5) regulations and minimum standards for other practices, methods, and procedure the Administrator finds necessary for safety in air commerce and national security.

(b) PRESCRIBING MINIMUM SAFETY STANDARDS.—The Administrator may prescribe minimum safety standards for—

(1) an air carrier to whom a certificate is issued under section 44705 of this title; and

(2) operating an airport serving any passenger operation of air carrier aircraft designed for at least 31 passenger seats.

(c) REDUCING AND ELIMINATING ACCIDENTS.—The Administrator shall carry out this chapter in a way that best tends to reduce or eliminate the possibility or recurrence of accidents in air transportation. However, the Administrator is not required to give preference either to air transportation or to other air commerce in carrying out this chapter.

(d) CONSIDERATIONS AND CLASSIFICATION OF REGULATIONS AND STANDARDS.—When prescribing a regulation or standard under subsection (a) or (b) of this section or any of sections 44702–44716 of this title, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and other air commerce; and

(2) classify a regulation or standard appropriate to the differences between air transportation and other air commerce.

(e) BILATERAL EXCHANGES OF SAFETY OVERSIGHT RESPONSIBILITIES.—

(1) IN GENERAL.—Notwithstanding the provisions of this chapter, the Administrator, pursuant to Article 83 bis of the Convention on International Civil Aviation and by a bilateral agreement with the aeronautical authorities of another country, may exchange with that country all or part of their respective functions and duties with respect to registered aircraft under the following articles of the Convention: Article 12 (Rules of the Air); Article 31 (Certificates of Airworthiness); or Article 32a (Licenses of Personnel).

(2) RELINQUISHMENT AND ACCEPTANCE OF RESPONSIBILITY.—The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) for United States-registered aircraft described in paragraph (4)(A) transferred abroad and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad and described in paragraph (4)(B) that are transferred to the United States.

(3) CONDITIONS.—The Administrator may predicate, in the agreement, the transfer of functions and duties under this subsection on any conditions the Administrator deems necessary and prudent, except that the Administrator may not transfer responsibilities for United States registered aircraft described in paragraph (4)(A) to a country that the Administrator determines is not in compliance with its obligations under international law for the safety oversight of civil aviation.

(4) REGISTERED AIRCRAFT DEFINED.—In this subsection, the term ''registered aircraft'' means—

(A) aircraft registered in the United States and operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in another country; and

(B) aircraft registered in a foreign country and operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in the United States.

(f) EXEMPTIONS.—The Administrator may grant an exemption from a requirement of a regulation prescribed under subsection (a) or (b) of this section or any of sections 44702–44716 of this title if the Administrator finds the exemption is in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1185; Pub. L. 103–429, § 6(55), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 106–181, title VII, § 714, Apr. 5, 2000, 114 Stat. 161.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44701(a)	49 App.:1421(a).	Aug. 23, 1958, Pub. L. 85–726, §§ 601(a), (b) (1st sentence related to standards, rules, and regulations, last sentence), (c), 604(a) (related to standards), 72 Stat. 775, 778.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44701(b)	49 App.:1424(a) (related to standards).	
	49 App.:1432(a) (related to standards).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 612(a) (related to standards); added May 21, 1970, Pub. L. 91–258, § 51(b)(1), 84 Stat. 234; restated Sept. 3, 1982, Pub. L. 97–248, § 525(a), 96 Stat. 697.
	49 App.:1655(c)(1).	
44701(c)	49 App.:1421(b) (last sentence).	
	49 App.:1655(c)(1).	
44701(d)	49 App.:1421(b) (1st sentence related to standards, rules, and regulations).	
	49 App.:1655(c)(1).	
44701(e)	49 App.:1421(c).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in sections 601(a)–(c) and 604 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775, 778) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''is empowered and it . . . be his duty to'' and ''and revising from time to time'' are omitted as surplus. In clause (1), the words ''as may be'' are omitted as surplus. In clauses (2)–(5), the words ''Reasonable'' and ''reasonable'' are omitted as surplus and the word ''rules'' is omitted as being synonymous with ''regulations''. In clause (5), the words ''to provide adequately'' are omitted as surplus.

In subsection (b)(1), the words ''the operation of'' are omitted as surplus. The words ''under section 44705 of this title'' are added for clarity.

In subsection (b)(2), the words ''scheduled or unscheduled'' are omitted as surplus.

In subsection (c), the words ''carry out'' are substituted for ''exercise and perform his powers and duties under'', and the words ''in carrying out'' are substituted for ''in the administration and enforcement of'', for consistency and to eliminate unnecessary words.

In subsection (d), before clause (1), the word ''rules'' is omitted as being synonymous with ''regulations''. In clause (1), before subclause (A), the word ''full'' is omitted as surplus. In clause (1)(A), the word ''provide'' is substituted for ''perform'' for consistency in the revised title.

In subsection (e), the words ''from time to time'' are omitted as surplus. The word ''rule'' is omitted as being synonymous with ''regulation''.

PUB. L. 103–429

This amends 49:44701(d) and (e) to correct erroneous cross-references.

AMENDMENTS

2000—Subsecs. (e), (f). Pub. L. 106–181 added subsec. (e) and redesignated former subsec. (e) as (f).

1994—Subsecs. (d), (e). Pub. L. 103–429 substituted ''any of sections 44702–44716'' for ''section 44702–44716''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of

Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

FAA INSPECTOR TRAINING

Pub. L. 108–176, title V, § 506, Dec. 12, 2003, 117 Stat. 2560, provided that:

''(a) STUDY.—

''(1) IN GENERAL.—The Comptroller General shall conduct a study of the training of the aviation safety inspectors of the Federal Aviation Administration (in this section referred to as 'FAA inspectors').

''(2) CONTENTS.—The study shall include—

''(A) an analysis of the type of training provided to FAA inspectors;

''(B) actions that the Federal Aviation Administration has undertaken to ensure that FAA inspectors receive up-to-date training on the latest technologies;

''(C) the extent of FAA inspector training provided by the aviation industry and whether such training is provided without charge or on a quid pro quo basis; and

''(D) the amount of travel that is required of FAA inspectors in receiving training.

''(3) REPORT.—Not later than 1 year after the date of enactment of this Act [Dec. 12, 2003], the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

''(b) SENSE OF THE HOUSE.—It is the sense of the House of Representatives that—

''(1) FAA inspectors should be encouraged to take the most up-to-date initial and recurrent training on the latest aviation technologies;

''(2) FAA inspector training should have a direct relation to an individual's job requirements; and

''(3) if possible, a FAA inspector should be allowed to take training at the location most convenient for the inspector.

''(c) WORKLOAD OF INSPECTORS.—

''(1) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 90 days after the date of enactment of this Act [Dec. 12, 2003], the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing standards for FAA inspectors to ensure proper oversight over the aviation industry, including the designee program.

''(2) CONTENTS.—The study shall include the following:

''(A) A suggested method of modifying FAA inspectors staffing models for application to current local conditions or applying some other approach to developing an objective staffing standard.

''(B) The approximate cost and length of time for developing such models.

''(3) REPORT.—Not later than 12 months after the initiation of the arrangements under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study.''

AIR TRANSPORTATION OVERSIGHT SYSTEM

Pub. L. 106–181, title V, § 513, Apr. 5, 2000, 114 Stat. 144, provided that:

''(a) REPORT.—Not later than August 1, 2000, the Administrator [of the Federal Aviation Administration] shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the progress of the Federal Aviation Administration in implementing the air transportation oversight system, including in detail the training of inspectors under the system, the number of inspectors using the system, air carriers subject to the system, and the budget for the system.

''(b) REQUIRED CONTENTS.—At a minimum, the report shall indicate—

''(1) any funding or staffing constraints that would adversely impact the Administration's ability to continue to develop and implement the air transportation oversight system;

''(2) progress in integrating the aviation safety data derived from such system's inspections with existing aviation data of the Administration in the safety performance analysis system of the Administration; and

''(3) the Administration's efforts in collaboration with the aviation industry to develop and validate safety performance measures and appropriate risk weightings for such system.

''(c) UPDATE.—Not later than August 1, 2002, the Administrator shall update the report submitted under this section and transmit the updated report to the committees referred to in subsection (a).''

REGULATION OF ALASKA GUIDE PILOTS

Pub. L. 106–181, title VII, § 732, Apr. 5, 2000, 114 Stat. 168, provided that:

''(a) IN GENERAL.—Beginning on the date of the enactment of this Act [Apr. 5, 2000], flight operations conducted by Alaska guide pilots shall be regulated under the general operating and flight rules contained in part 91 of title 14, Code of Federal Regulations.

''(b) RULEMAKING PROCEEDING.—

''(1) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall conduct a rulemaking proceeding and issue a final rule to modify the general operating and flight rules referred to in subsection (a) by establishing special rules applicable to the flight operations conducted by Alaska guide pilots.

''(2) CONTENTS OF RULES.—A final rule issued by the Administrator under paragraph (1) shall require Alaska guide pilots—

''(A) to operate aircraft inspected no less often than after 125 hours of flight time;

''(B) to participate in an annual flight review, as described in section 61.56 of title 14, Code of Federal Regulations;

''(C) to have at least 500 hours of flight time as a pilot;

''(D) to have a commercial rating, as described in subpart F of part 61 of such title;

''(E) to hold at least a second-class medical certificate, as described in subpart C of part 67 of such title;

''(F) to hold a current letter of authorization issued by the Administrator; and

''(G) to take such other actions as the Administrator determines necessary for safety.

''(3) CONSIDERATION.—In making a determination to impose a requirement under paragraph (2)(G), the Administrator shall take into account the unique conditions associated with air travel in the State of Alaska to ensure that such requirements are not unduly burdensome.

''(c) DEFINITIONS.—In this section, the following definitions apply:

''(1) LETTER OF AUTHORIZATION.—The term 'letter of authorization' means a letter issued by the Administrator once every 5 years to an Alaska guide pilot certifying that the pilot is in compliance with general operating and flight rules applicable to the pilot. In the case of a multi-pilot operation, at the election of the operating entity, a letter of authorization may be issued by the Administrator to the entity or to each Alaska guide pilot employed by the entity.

''(2) ALASKA GUIDE PILOT.—The term 'Alaska guide pilot' means a pilot who—

''(A) conducts aircraft operations over or within the State of Alaska;

''(B) operates single engine, fixed-wing aircraft on floats, wheels, or skis, providing commercial hunting, fishing, or other guide services and related accommodations in the form of camps or lodges; and

''(C) transports clients by such aircraft incidental to hunting, fishing, or other guide services.''

AVIATION MEDICAL ASSISTANCE

Pub. L. 105–170, Apr. 24, 1998, 112 Stat. 47, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Aviation Medical Assistance Act of 1998'.

''SEC. 2. MEDICAL KIT EQUIPMENT AND TRAINING.

''Not later than 1 year after the date of the enactment of this Act [Apr. 24, 1998], the Administrator of the Federal Aviation Administration shall reevaluate regulations regarding: (1) the equipment required to be carried in medical kits of aircraft operated by air carriers; and (2) the training required of flight attendants in the use of such equipment, and, if the Administrator determines that such regulations should be modified as a result of such reevaluation, shall issue a notice of proposed rulemaking to modify such regulations.

''SEC. 3. REPORTS REGARDING DEATHS ON AIRCRAFT.

''(a) IN GENERAL.—During the 1-year period beginning on the 90th day following the date of the enactment of this Act [Apr. 24, 1998], a major air carrier shall make a good faith effort to obtain, and shall submit quarterly reports to the Administrator of the Federal Aviation Administration on, the following:

''(1) The number of persons who died on aircraft of the air carrier, including any person who was declared dead after being removed from such an aircraft as a result of a medical incident that occurred on such aircraft.

''(2) The age of each such person.

''(3) Any information concerning cause of death that is available at the time such person died on the aircraft or is removed from the aircraft or that subsequently becomes known to the air carrier.

''(4) Whether or not the aircraft was diverted as a result of the death or incident.

''(5) Such other information as the Administrator may request as necessary to aid in a decision as to whether or not to require automatic external defibrillators in airports or on aircraft operated by air carriers, or both.

''(b) FORMAT.—The Administrator may specify a format for reports to be submitted under this section.

''SEC. 4. DECISION ON AUTOMATIC EXTERNAL DEFIBRILLATORS.

''(a) IN GENERAL.—Not later than 120 days after the last day of the 1-year period described in section 3, the Administrator of the Federal Aviation Administration shall make a decision on whether or not to require automatic external defibrillators on passenger aircraft operated by air carriers and whether or not to require automatic external defibrillators at airports.

''(b) FORM OF DECISION.—A decision under this section shall be in the form of a notice of proposed rulemaking requiring automatic external defibrillators in airports or on passenger aircraft operated by air carriers, or both, or a recommendation to Congress for legislation requiring such defibrillators or a notice in the Federal Register that such defibrillators should not be required in airports or on such aircraft. If a decision under this section is in the form of a notice of proposed rulemaking, the Administrator shall make a final decision not later than the 120th day following the date on which comments are due on the notice of proposed rulemaking.

''(c) CONTENTS.—If the Administrator decides that automatic external defibrillators should be required—

''(1) on passenger aircraft operated by air carriers, the proposed rulemaking or recommendation shall include—

''(A) the size of the aircraft on which such defibrillators should be required;

''(B) the class flights (whether interstate, overseas, or foreign air transportation or any combination thereof) on which such defibrillators should be required;

''(C) the training that should be required for air carrier personnel in the use of such defibrillators; and

''(D) the associated equipment and medication that should be required to be carried in the aircraft medical kit; and

''(2) at airports, the proposed rulemaking or recommendation shall include—

''(A) the size of the airport at which such defibrillators should be required;

''(B) the training that should be required for airport personnel in the use of such defibrillators; and

''(C) the associated equipment and medication that should be required at the airport.

''(d) LIMITATION.—The Administrator may not require automatic external defibrillators on helicopters and on aircraft with a maximum payload capacity (as defined in section 119.3 of title 14, Code of Federal Regulations) of 7,500 pounds or less.

''(e) SPECIAL RULE.—If the Administrator decides that automatic external defibrillators should be required at airports, the proposed rulemaking or recommendation shall provide that the airports are responsible for providing the defibrillators.

''SEC. 5. LIMITATIONS ON LIABILITY.

''(a) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in obtaining or attempting to obtain the assistance of a passenger in an in-flight medical emergency, or out of the acts or omissions of the passenger rendering the assistance, if the passenger is not an employee or agent of the carrier and the carrier in good faith believes that the passenger is a medically qualified individual.

''(b) LIABILITY OF INDIVIDUALS.—An individual shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the individual in providing or attempting to provide assistance in the case of an in-flight medical emergency unless the individual, while rendering such assistance, is guilty of gross negligence or willful misconduct.

''SEC. 6. DEFINITIONS.

''In this Act—

''(1) the terms 'air carrier', 'aircraft', 'airport', 'interstate air transportation', 'overseas air transportation', and 'foreign air transportation' have the meanings such terms have under section 40102 of title 49, United States Code;

''(2) the term 'major air carrier' means an air carrier certificated under section 41102 of title 49, United States Code, that accounted for at least 1 percent of domestic scheduled-passenger revenues in the 12 months ending March 31 of the most recent year preceding the date of the enactment of this Act [Apr. 24, 1998], as reported to the Department of Transportation pursuant to part 241 of title 14 of the Code of Federal Regulations; and

''(3) the term 'medically qualified individual' includes any person who is licensed, certified, or otherwise qualified to provide medical care in a State, including a physician, nurse, physician assistant, paramedic, and emergency medical technician.''

§ 44702. Issuance of certificates

(a) GENERAL AUTHORITY AND APPLICATIONS.—The Administrator of the Federal Aviation Administration may issue airman certificates, type certificates, production certificates, airworthiness certificates, air carrier operating certifi-

cates, airport operating certificates, air agency certificates, and air navigation facility certificates under this chapter. An application for a certificate must—

(1) be under oath when the Administrator requires; and

(2) be in the form, contain information, and be filed and served in the way the Administrator prescribes.

(b) CONSIDERATIONS.—When issuing a certificate under this chapter, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and other air commerce; and

(2) classify a certificate according to the differences between air transportation and other air commerce.

(c) PRIOR CERTIFICATION.—The Administrator may authorize an aircraft, aircraft engine, propeller, or appliance for which a certificate has been issued authorizing the use of the aircraft, aircraft engine, propeller, or appliance in air transportation to be used in air commerce without another certificate being issued.

(d) DELEGATION.—(1) Subject to regulations, supervision, and review the Administrator may prescribe, the Administrator may delegate to a qualified private person, or to an employee under the supervision of that person, a matter related to—

(A) the examination, testing, and inspection necessary to issue a certificate under this chapter; and

(B) issuing the certificate.

(2) The Administrator may rescind a delegation under this subsection at any time for any reason the Administrator considers appropriate.

(3) A person affected by an action of a private person under this subsection may apply for reconsideration of the action by the Administrator. On the Administrator's own initiative, the Administrator may reconsider the action of a private person at any time. If the Administrator decides on reconsideration that the action is unreasonable or unwarranted, the Administrator shall change, modify, or reverse the action. If the Administrator decides the action is warranted, the Administrator shall affirm the action.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1186; Pub. L. 108–176, title II, § 227(a), Dec. 12, 2003, 117 Stat. 2531.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 108–176, title II, § 227(a), Dec. 12, 2003, 117 Stat. 2531, provided that, effective on the last day of the 7-year period beginning on Dec. 12, 2003, subsection (a) of this section is amended by inserting ''design organization certificates,'' after ''airman certificates,''.

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44702(a)	49 App.:1422(a) (1st–10th words).	Aug. 23, 1958, Pub. L. 85–726, §§ 314 (less (a) (last sentence related to fees)), 601(b) (1st sentence related to issuing certificates, 2d sentence), 602(a) (1st–8th words), 603(a)(1), (b), (c) (as § 603(a)(1), (b), (c) relate to issuing certificates), 604(a) (related to issuing certificates), 606 (last sentence), 607 (last sentence), 608, 72 Stat. 754, 775, 776, 777, 778, 779.
	49 App.:1423(a)(1), (b), (c) (as 49 App.:1423(a)(1), (b), (c) relate to issuing certificates).	
	49 App.:1424(a) (related to issuing certificates).	
	49 App.:1426 (last sentence).	
	49 App.:1427 (last sentence).	
	49 App.:1428.	
	49 App.:1432(a) (related to issuing certificates).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 612(a) (related to issuing certificates); added May 21, 1970, Pub. L. 91–258, § 51(b)(1), 84 Stat. 234; restated Sept. 3, 1982, Pub. L. 97–248, § 525(a), 96 Stat. 697.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44702(b)	49 App.:1421(b) (1st sentence related to issuing certificates).	
	49 App.:1655(c)(1).	
44702(c)	49 App.:1421(b) (2d sentence).	
	49 App.:1655(c)(1).	
44702(d)	49 App.:1355 (less (a) (last sentence related to fees)).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in sections 601(b), 602(a), 603(a)(1), 604(a), 606 (last sentence), 607 (last sentence), and 608 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775, 776, 778, 779) is retained on authority of 49:106(g).

In subsection (a), the reference to a type certificate and production certificate is added for clarity.

In subsection (b)(1), before subclause (A), the word ''full'' is omitted as surplus. In clause (1)(A), the word ''provide'' is substituted for ''perform'' for consistency in the revised title.

In subsection (d)(1), before clause (A), the words ''In exercising the powers and duties vested in him by this chapter'' and ''properly'' are omitted as surplus. The words ''or employees'' are omitted because of 1:1. The word ''matter'' is substituted for ''work, business, or function'' to eliminate unnecessary words. In clause (B), the words ''in accordance with standards established by him'' are omitted as surplus.

In subsection (d)(2), the words ''made by him'' are omitted as surplus.

In subsection (d)(3), the words ''exercising delegated authority'' and ''with respect to the authority granted under subsection (a) of this section'' are omitted as surplus. The words ''at any time'' are substituted for ''either before or after it has become effective'', and the words ''If the Administrator decides on reconsideration that the action is unreasonable or unwarranted'' are substituted for ''If, upon reconsideration by the Secretary of Transportation, it shall appear that the action in question is in any respect unjust or unwarranted'', to eliminate unnecessary words. The words ''the action'' are substituted for ''the same accordingly'', and the words ''If the Administrator decides the action is warranted, the Administrator shall affirm the

action'' are substituted for ''otherwise, such action shall be affirmed'', for clarity. The text of 49 App.:1355(b) (proviso) is omitted as unnecessary because of 5:559 (last sentence).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title II, § 227(a), Dec. 12, 2003, 117 Stat. 2531, provided that the amendment made by section 227(a) is effective on the last day of the 7-year period beginning on Dec. 12, 2003.

DEVELOPMENT OF ANALYTICAL TOOLS AND CERTIFICATION METHODS

Pub. L. 108–176, title VII, § 706, Dec. 12, 2003, 117 Stat. 2582, provided that: ''The Federal Aviation Administration shall conduct research to promote the development of analytical tools to improve existing certification methods and to reduce the overall costs for the certification of new products.''

§ 44703. Airman certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airman certificate to an individual when the Administrator finds, after investigation, that the individual is qualified for, and physically able to perform the duties related to, the position to be authorized by the certificate.

(b) CONTENTS.—(1) An airman certificate shall—

(A) be numbered and recorded by the Administrator of the Federal Aviation Administration;

(B) contain the name, address, and description of the individual to whom the certificate is issued;

(C) contain terms the Administrator decides are necessary to ensure safety in air commerce, including terms on the duration of the certificate, periodic or special examinations, and tests of physical fitness;

(D) specify the capacity in which the holder of the certificate may serve as an airman with respect to an aircraft; and

(E) designate the class the certificate covers.

(2) A certificate issued to a pilot serving in scheduled air transportation shall have the designation ''airline transport pilot'' of the appropriate class.

(c) PUBLIC INFORMATION.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, the information contained in the records of contents of any airman certificate issued under this section that is limited to an airman's name, address, and ratings held shall be made available to the public after the 120th day following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century.

(2) OPPORTUNITY TO WITHHOLD INFORMATION.—Before making any information concerning an airman available to the public under paragraph (1), the airman shall be given an opportunity to elect that the information not be made available to the public.

(3) DEVELOPMENT AND IMPLEMENTATION OF PROGRAM.—Not later than 60 days after the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, the Administrator shall develop and implement, in cooperation with representatives of the aviation industry, a one-time written notification to airmen to set forth the implications of making information concerning an airman available to the public under paragraph (1) and to carry out paragraph (2). The Administrator shall also provide such written notification to each individual who becomes an airman after such date of enactment.

(d) APPEALS.—(1) An individual whose application for the issuance or renewal of an airman certificate has been denied may appeal the denial to the National Transportation Safety Board, except if the individual holds a certificate that—

(A) is suspended at the time of denial; or

(B) was revoked within one year from the date of the denial.

(2) The Board shall conduct a hearing on the appeal at a place convenient to the place of residence or employment of the applicant. The Board is not bound by findings of fact of the Administrator of the Federal Aviation Administration but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law. At the end of the hearing, the Board shall decide whether the individual meets the applicable regulations and standards. The Administrator is bound by that decision.

(e) RESTRICTIONS AND PROHIBITIONS.—The Administrator of the Federal Aviation Administration may—

(1) restrict or prohibit issuing an airman certificate to an alien; or

(2) make issuing the certificate to an alien dependent on a reciprocal agreement with the government of a foreign country.

(f) CONTROLLED SUBSTANCE VIOLATIONS.—The Administrator of the Federal Aviation Administration may not issue an airman certificate to an individual whose certificate is revoked under section 44710 of this title except—

(1) when the Administrator decides that issuing the certificate will facilitate law enforcement efforts; and

(2) as provided in section 44710(e)(2) of this title.

(g) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for issuing airman certificates necessary to make the system more effective in serving the needs of airmen and officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) and related to combating acts of terrorism. The modifications shall ensure positive and verifiable identification of each individual applying for or holding a certificate and shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) the use of fictitious names and addresses by applicants for those certificates.

(B) the use of stolen or fraudulent identification in applying for those certificates.

(C) the use by an applicant of a post office box or ''mail drop'' as a return address to evade identification of the applicant's address.

(D) the use of counterfeit and stolen airman certificates by pilots.

(E) the absence of information about physical characteristics of holders of those certificates.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(3) For purposes of this section, the term ''acts of terrorism'' means an activity that involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State, and appears to be intended to intimidate or coerce a civilian population to influence the policy of a government by intimidation or coercion or to affect the conduct of a government by assassination or kidnaping.

(4) The Administrator is authorized and directed to work with State and local authorities, and other Federal agencies, to assist in the identification of individuals applying for or holding airmen certificates.

(h) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—

(1) IN GENERAL.—Subject to paragraph (14), before allowing an individual to begin service as a pilot, an air carrier shall request and receive the following information:

(A) FAA RECORDS.—From the Administrator of the Federal Aviation Administration, records pertaining to the individual that are maintained by the Administrator concerning—

(i) current airman certificates (including airman medical certificates) and associated type ratings, including any limitations to those certificates and ratings; and

(ii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person (except a branch of the United States Armed Forces, the National Guard, or a reserve component of the United States Armed Forces) that has employed the individual as a pilot of a civil or public aircraft at any time during the 5-year period preceding the date of the employment application of the individual, or from the trustee in bankruptcy for such air carrier or person—

(i) records pertaining to the individual that are maintained by an air carrier (other than records relating to flight time, duty time, or rest time) under regulations set forth in—

(I) section 121.683 of title 14, Code of Federal Regulations;

(II) paragraph (A) of section VI, appendix I, part 121 of such title;

(III) paragraph (A) of section IV, appendix J, part 121 of such title;

(IV) section 125.401 of such title; and

(V) section 135.63(a)(4) of such title; and

(ii) other records pertaining to the individual's performance as a pilot that are maintained by the air carrier or person concerning—

(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

(III) any release from employment or resignation, termination, or disqualification with respect to employment.

(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(8) of this title, from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

(2) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier making a request for records under paragraph (1)—

(A) shall be required to obtain written consent to the release of those records from the individual that is the subject of the records requested; and

(B) may, notwithstanding any other provision of law or agreement to the contrary, require the individual who is the subject of the records to request to execute a release from liability for any claim arising from the furnishing of such records to or the use of such records by such air carrier (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

(3) 5-YEAR REPORTING PERIOD.—A person shall not furnish a record in response to a request made under paragraph (1) if the record was entered more than 5 years before the date of the request, unless the information concerns a revocation or suspension of an airman certificate or motor vehicle license that is in effect on the date of the request.

(4) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator and air carriers shall maintain pilot records described in paragraphs (1)(A) and (1)(B) for a period of at least 5 years.

(5) RECEIPT OF CONSENT; PROVISION OF INFORMATION.—A person shall not furnish a record in

response to a request made under paragraph (1) without first obtaining a copy of the written consent of the individual who is the subject of the records requested; except that, for purposes of paragraph (15), the Administrator may allow an individual designated by the Administrator to accept and maintain written consent on behalf of the Administrator for records requested under paragraph (1)(A). A person who receives a request for records under this subsection shall furnish a copy of all of such requested records maintained by the person not later than 30 days after receiving the request.

(6) RIGHT TO RECEIVE NOTICE AND COPY OF ANY RECORD FURNISHED.—A person who receives a request for records under paragraph (1) shall provide to the individual who is the subject of the records—

(A) on or before the 20th day following the date of receipt of the request, written notice of the request and of the individual's right to receive a copy of such records; and

(B) in accordance with paragraph (10), a copy of such records, if requested by the individual.

(7) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—A person who receives a request under paragraph (1) or (6) may establish a reasonable charge for the cost of processing the request and furnishing copies of the requested records.

(8) STANDARD FORMS.—The Administrator shall promulgate—

(A) standard forms that may be used by an air carrier to request records under paragraph (1); and

(B) standard forms that may be used by an air carrier to—

(i) obtain the written consent of the individual who is the subject of a request under paragraph (1); and

(ii) inform the individual of—

(I) the request; and

(II) the individual right of that individual to receive a copy of any records furnished in response to the request.

(9) RIGHT TO CORRECT INACCURACIES.—An air carrier that maintains or requests and receives the records of an individual under paragraph (1) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(10) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS.—Notwithstanding any other provision of law or agreement, an air carrier shall, upon written request from a pilot who is or has been employed by such carrier, make available, within a reasonable time, but not later than 30 days after the date of the request, to the pilot for review, any and all employment records referred to in paragraph (1)(B)(i) or (ii) pertaining to the employment of the pilot.

(11) PRIVACY PROTECTIONS.—An air carrier that receives the records of an individual under paragraph (1) may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the pilot and the confidentiality of the records, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

(12) PERIODIC REVIEW.—Not later than 18 months after the date of the enactment of the Pilot Records Improvement Act of 1996, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be furnished under subparagraphs (A) and (B) of paragraph (1); or

(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

(13) REGULATIONS.—The Administrator shall prescribe such regulations as may be necessary—

(A) to protect—

(i) the personal privacy of any individual whose records are requested under paragraph (1) and disseminated under paragraph (15); and

(ii) the confidentiality of those records;

(B) to preclude the further dissemination of records received under paragraph (1) by the person who requested those records; and

(C) to ensure prompt compliance with any request made under paragraph (1).

(14) SPECIAL RULES WITH RESPECT TO CERTAIN PILOTS.—

(A) PILOTS OF CERTAIN SMALL AIRCRAFT.—Notwithstanding paragraph (1), an air carrier, before receiving information requested about an individual under paragraph (1), may allow the individual to begin service for a period not to exceed 90 days as a pilot of an aircraft with a maximum payload capacity (as defined in section 119.3 of title 14, Code of Federal Regulations) of 7,500 pounds or less, or a helicopter, on a flight that is not a scheduled operation (as defined in such section). Before the end of the 90-day period, the air carrier shall obtain and evaluate such information. The contract between the carrier and the individual shall contain a term that provides that the continuation of the individual's employment, after the last day of the 90-day period, depends on a satisfactory evaluation.

(B) GOOD FAITH EXCEPTION.—Notwithstanding paragraph (1), an air carrier, without obtaining information about an individual under paragraph (1)(B) from an air carrier or other person that no longer exists or from a foreign government or entity that employed the individual, may allow the individual to begin service as a pilot if the air carrier required to request the information has made a documented good faith attempt to obtain such information.

(15) ELECTRONIC ACCESS TO FAA RECORDS.—For the purpose of increasing timely and efficient access to Federal Aviation Administration records described in paragraph (1), the Administrator may allow, under terms established by the Administrator, an individual designated by the air carrier to have electronic access to a specified database containing information about such records. The terms shall limit such access to instances in which information in the database is required by the designated individual in making a hiring decision concerning a pilot applicant and shall require that the designated individual provide assurances satisfactory to the Administrator that information obtained using such access will not be used for any purpose other than making the hiring decision.

(i) LIMITATION ON LIABILITY; PREEMPTION OF STATE LAW.—

(1) LIMITATION ON LIABILITY.—No action or proceeding may be brought by or on behalf of an individual who has applied for or is seeking a position with an air carrier as a pilot and who has signed a release from liability, as provided for under paragraph (2), against—

(A) the air carrier requesting the records of that individual under subsection (h)(1);

(B) a person who has complied with such request;

(C) a person who has entered information contained in the individual's records; or

(D) an agent or employee of a person described in subparagraph (A) or (B);

in the nature of an action for defamation, invasion of privacy, negligence, interference with contract, or otherwise, or under any Federal or State law with respect to the furnishing or use of such records in accordance with subsection (h).

(2) PREEMPTION.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using records in accordance with subsection (h).

(3) PROVISION OF KNOWINGLY FALSE INFORMATION.—Paragraphs (1) and (2) shall not apply with respect to a person who furnishes information in response to a request made under subsection (h)(1), that—

(A) the person knows is false; and

(B) was maintained in violation of a criminal statute of the United States.

(j) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in subsection (h) shall be construed as precluding the availability of the records of a pilot in an investigation or other proceeding concerning an accident or incident conducted by the Administrator, the National Transportation Safety Board, or a court.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1186; Pub. L. 106–181, title VII, § 715, Apr. 5, 2000, 114 Stat. 162; Pub. L. 107–71, title I, §§ 129, 138(b), 140(a), Nov. 19, 2001, 115 Stat. 633, 640, 641.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44703(a)	49 App.:1422(b)(1) (1st sentence, 2d sentence words before 6th comma).	Aug. 23, 1958, Pub. L. 85–726, § 602(b)(1), 72 Stat. 776; Oct. 19, 1984, Pub. L. 98–499, § 3, 98 Stat. 2313; Aug. 26, 1992, Pub. L. 102–345, § 4, 106 Stat. 926.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44703(b)	49 App.:1422(a) (11th–last words).	Aug. 23, 1958, Pub. L. 85–726, § 602(a) (9th–last words), (c), 72 Stat. 776.
	49 App.:1422(b)(1) (2d sentence words after 6th comma), (c).	
	49 App.:1655(c)(1).	
44703(c)(1) ..	49 App.:1422(b)(1) (3d sentence).	
44703(c)(2) ..	49 App.:1422(b)(1) (4th, 5th sentences, last sentence words before proviso).	
	49 App.:1655(c)(1).	
44703(d)	49 App.:1422(b)(1) (last sentence proviso).	
	49 App.:1655(c)(1).	
44703(e)	49 App.:1422(b)(2)(A), (B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 602(b)(2)(A), (B); added Oct. 19, 1984, Pub. L. 98–499, § 3, 98 Stat. 2313; restated Nov. 18, 1988, Pub. L. 100–690, § 7204(a), 102 Stat. 4425.
44703(f)(1) ...	49 App.:1422(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 602(d); added Nov. 18, 1988, Pub. L. 100–690, § 7205(a), 102 Stat. 4426.
44703(f)(2) ...	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7207(a) (1st sentence), (b), 102 Stat. 4427.

In subsections (a)–(d), the word ''Administrator'' in section 602(a), (b)(1), and (c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 776) is retained on authority of 49:106(g).

In subsection (a), the text of 49 App.:1422(b) (1st sentence) is omitted as surplus. The words ''is qualified'' are substituted for ''possesses proper qualifications'' to eliminate unnecessary words. The words ''to be authorized by the certificate'' are substituted for ''for which the airman certificate is sought'' for clarity.

In subsection (b)(1)(C), the words ''conditions, and limitations'' are omitted as being included in ''terms''.

In subsection (b)(1)(E), the word ''designate'' is substituted for ''be entitled with the designation of'' to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words ''may appeal . . . to'' are substituted for ''may file with . . . a petition for review of the Secretary of Transportation's action'' for consistency with section 1109 of the revised title. The words ''the individual holds a certificate that'' are substituted for ''persons whose certificates'' for clarity.

In subsection (c)(2), the words ''conduct a hearing on the appeal'' are substituted for ''thereupon assign such petition for hearing'' for consistency. The words ''In the conduct of such hearing and in determining whether the airman meets the pertinent rules, regulations, or standards'' are omitted as surplus. The word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g). The words ''meets the applicable regulations'' are substituted for ''meets the pertinent rules, regulations'' because ''rules'' and ''regulations'' are synonymous and for consistency in the revised title.

In subsection (d), before clause (1), the words ''in his discretion'' are omitted as surplus. In clause (2), the words ''the terms of'' and ''entered into'' are omitted as surplus. The words ''government of a foreign country'' are substituted for ''foreign governments'' for consistency in the revised title and with other titles of the United States Code.

In subsection (f)(1), before clause (A), the words ''established under this chapter'' and ''to pilots'' are omitted as surplus.

In subsection (f)(2), the words ''Not later than September 18, 1989'' and ''final'' are omitted as obsolete. The words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words ''Commissioner of Customs'' are substituted for ''United States Customs Service'' because of 19:2071.

REFERENCES IN TEXT

The date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (c)(1), (3), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

The date of the enactment of the Pilot Records Improvement Act of 1996, referred to in subsec. (h)(12), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

CODIFICATION

The text of section 44936(f) to (h) of this title, which was transferred to the end of this section, redesignated as subsecs. (h) to (j), respectively, and amended by Pub. L. 107–71, §§138(b), 140(a), was based on Pub. L. 104–264, title V, §502(a), Oct. 9, 1996, 110 Stat. 3259; amended Pub. L. 105–102, §2(25), Nov. 20, 1997, 111 Stat. 2205; Pub. L. 105–142, §1, Dec. 5, 1997, 111 Stat. 2650; Pub. L. 106–181, title V, §508(b), Apr. 5, 2000, 114 Stat. 140.

AMENDMENTS

2001—Subsec. (g)(1). Pub. L. 107–71, §129(1), in first sentence, substituted ''needs of airmen'' for ''needs of pilots'' and inserted ''and related to combating acts of terrorism'' before period at end.

Subsec. (g)(3), (4). Pub. L. 107–71, §129(2), added pars. (3) and (4).

Subsecs. (h) to (j). Pub. L. 107–71, §§138(b), 140(a), amended section identically, redesignating subsecs. (f) to (h) of section 44936 of this title as subsecs. (h) to (j), respectively, of this section, and substituting ''subsection (h)'' for ''subsection (f)'' wherever appearing in subsecs. (i) and (j). See Codification note above.

2000—Subsecs. (c) to (g). Pub. L. 106–181 added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

IMPROVED PILOT LICENSES

Pub. L. 108–458, title IV, §4022, Dec. 17, 2004, 118 Stat. 3723, provided that:

''(a) IN GENERAL.—Not later than one year after the date of enactment of this Act [Dec. 17, 2004], the Administrator of the Federal Aviation Administration shall begin to issue improved pilot licenses consistent with the requirements of title 49, United States Code, and title 14, Code of Federal Regulations.

''(b) REQUIREMENTS.—Improved pilots licenses issued under subsection (a) shall—

''(1) be resistant to tampering, alteration, and counterfeiting;

''(2) include a photograph of the individual to whom the license is issued; and

''(3) be capable of accommodating a digital photograph, a biometric identifier, or any other unique identifier that the Administrator considers necessary.

''(c) TAMPERING.—To the extent practical, the Administrator shall develop methods to determine or reveal whether any component or security feature of a license issued under subsection (a) has been tampered, altered, or counterfeited.

''(d) USE OF DESIGNEES.—The Administrator may use designees to carry out subsection (a) to the extent feasible in order to minimize the burdens on pilots.''

CREDITING OF LAW ENFORCEMENT FLIGHT TIME

Pub. L. 106–424, §14, Nov. 1, 2000, 114 Stat. 1888, provided that: ''In determining whether an individual meets the aeronautical experience requirements imposed under section 44703 of title 49, United States Code, for an airman certificate or rating, the Secretary of Transportation shall take into account any time spent by that individual operating a public aircraft as defined in section 40102 of title 49, United States Code, if that aircraft is—

''(1) identifiable by category and class; and

''(2) used in law enforcement activities.''

§ 44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates

(a) TYPE CERTIFICATES.—

(1) ISSUANCE, INVESTIGATIONS, AND TESTS.—The Administrator of the Federal Aviation Administration shall issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under paragraph (2)(A) of this subsection when the Administrator finds that the aircraft, aircraft engine, propeller, or appliance is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a) of this title. On receiving an application for a type certificate, the Administrator shall investigate the application and may conduct a hearing. The Administrator shall make, or require the applicant to make, tests the Administrator considers necessary in the interest of safety.

(2) SPECIFICATIONS.—The Administrator may—

(A) specify in regulations those appliances that reasonably require a type certificate in the interest of safety;

(B) include in a type certificate terms required in the interest of safety; and

(C) record on the certificate a numerical specification of the essential factors related to the performance of the aircraft, aircraft engine, or propeller for which the certificate is issued.

(3) SPECIAL RULES FOR NEW AIRCRAFT AND APPLIANCES.—Except as provided in paragraph (4), if the holder of a type certificate agrees to permit another person to use the certificate to manufacture a new aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of

that agreement. Such other person may manufacture a new aircraft, aircraft engine, propeller, or appliance based on a type certificate only if such other person is the holder of the type certificate or has permission from the holder.

(4) LIMITATION FOR AIRCRAFT MANUFACTURED BEFORE AUGUST 5, 2004.—Paragraph (3) shall not apply to a person who began the manufacture of an aircraft before August 5, 2004, and who demonstrates to the satisfaction of the Administrator that such manufacture began before August 5, 2004, if the name of the holder of the type certificate for the aircraft does not appear on the airworthiness certificate or identification plate of the aircraft. The holder of the type certificate for the aircraft shall not be responsible for the continued airworthiness of the aircraft. A person may invoke the exception provided by this paragraph with regard to the manufacture of only one aircraft.

(b) SUPPLEMENTAL TYPE CERTIFICATES.—

(1) ISSUANCE.—The Administrator may issue a type certificate designated as a supplemental type certificate for a change to an aircraft, aircraft engine, propeller, or appliance.

(2) CONTENTS.—A supplemental type certificate issued under paragraph (1) shall consist of the change to the aircraft, aircraft engine, propeller, or appliance with respect to the previously issued type certificate for the aircraft, aircraft engine, propeller, or appliance.

(3) REQUIREMENT.—If the holder of a supplemental type certificate agrees to permit another person to use the certificate to modify an aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. A person may change an aircraft, aircraft engine, propeller, or appliance based on a supplemental type certificate only if the person requesting the change is the holder of the supplemental type certificate or has permission from the holder to make the change.

(c) PRODUCTION CERTIFICATES.—The Administrator shall issue a production certificate authorizing the production of a duplicate of an aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued when the Administrator finds the duplicate will conform to the certificate. On receiving an application, the Administrator shall inspect, and may require testing of, a duplicate to ensure that it conforms to the requirements of the certificate. The Administrator may include in a production certificate terms required in the interest of safety.

(d) AIRWORTHINESS CERTIFICATES.—(1) The registered owner of an aircraft may apply to the Administrator for an airworthiness certificate for the aircraft. The Administrator shall issue an airworthiness certificate when the Administrator finds that the aircraft conforms to its type certificate and, after inspection, is in condition for safe operation. The Administrator shall register each airworthiness certificate and may include appropriate information in the certificate. The certificate number or other individual designation the Administrator requires shall be displayed on the aircraft. The Administrator may include in an airworthiness certificate terms required in the interest of safety.

(2) A person applying for the issuance or renewal of an airworthiness certificate for an aircraft for which ownership has not been recorded under section 44107 or 44110 of this title must submit with the application information related to the ownership of the aircraft the Administrator decides is necessary to identify each person having a property interest in the aircraft and the kind and extent of the interest.

(e) DESIGN ORGANIZATION CERTIFICATES.—

(1) ISSUANCE.—Beginning 7 years after the date of enactment of this subsection, the Administrator may issue a design organization certificate to a design organization to authorize the organization to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

(2) APPLICATIONS.—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to determine whether the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a).

(3) ISSUANCE OF TYPE CERTIFICATES BASED ON DESIGN ORGANIZATION CERTIFICATION.—The Administrator may rely on certifications of compliance by a design organization when making a finding under subsection (a).

(4) PUBLIC SAFETY.—The Administrator shall include in a design organization certificate issued under this subsection terms required in the interest of safety.

(5) NO EFFECT ON POWER OF REVOCATION.—Nothing in this subsection affects the authority of the Secretary of Transportation to revoke a certificate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1188; Pub. L. 104–264, title IV, § 403, Oct. 9, 1996, 110 Stat. 3256; Pub. L. 108–176, title II, § 227(b)(2), (e)(1), title VIII, § 811, Dec. 12, 2003, 117 Stat. 2531, 2532, 2590; Pub. L. 109–59, title IV, § 4405, Aug. 10, 2005, 119 Stat. 1776.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44704(a)(1) ..	49 App.:1423(a)(2) (1st–4th sentences).	Aug. 23, 1958, Pub. L. 85–726, §§ 503(h), 603(a)(1) (related to regulations for appliances), (2), (b) (related to basis for issuing, and contents of, certificates), (c) (related to basis for issuing, and contents of, certificates), 72 Stat. 774, 776.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44704(a)(2) ..	49 App.:1423(a)(1) (related to regulations for appliances), (2) (5th, last sentences).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44704(b)	49 App.:1655(c)(1). 49 App.:1423(b) (related to basis for issuing, and contents of, certificates).	
44704(c)(1) ..	49 App.:1655(c)(1). 49 App.:1423(c) (related to basis for issuing, and contents of, certificates).	
44704(c)(2) ..	49 App.:1655(c)(1). 49 App.:1403(h). 49 App.:1655(c)(1).	

In subsections (a)–(c)(1), the word ''Administrator'' in section 603 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 776) is retained on authority of 49:106(g).

In subsection (a)(1), the text of 49 App.:1423(a)(2) (1st sentence 1st–16th words) and the words ''in regulations'' are omitted as surplus. The words ''properly designed and manufactured, performs properly'' are substituted for ''of proper design, material, specification, construction, and performance for safe operation'' to eliminate unnecessary words. The word ''rules'' is omitted as being synonymous with ''regulations''. The words ''under section 44701(a) of this title'' and ''for a type certificate'' are added for clarity. The words ''including flight tests and tests of raw materials or any part or appurtenance of such aircraft, aircraft engine, propeller, or appliance'' are omitted as surplus.

In subsection (a)(2)(A), the words ''issuance of'' are omitted as surplus.

In subsection (a)(2)(B), the words ''the duration thereof and such other'' are omitted as surplus. The words ''conditions, and limitations'' are omitted as being included in ''terms''.

In subsection (a)(2)(C), the words ''issued for aircraft, aircraft engines, or propellers'' and ''all of'' are omitted as surplus. The word ''specification'' is substituted for ''determination'' for clarity.

In subsection (b), the word ''satisfactorily'' is omitted as surplus. The words ''shall inspect, and may require testing of, a duplicate to ensure that it conforms to the requirements of the certificate'' are substituted for ''shall make such inspection and may require such tests of any aircraft, aircraft engine, propeller, or appliance manufactured under a production certificate as may be necessary to assure manufacture of each unit in conformity with the type certificate or any amendment or modification thereof'' to eliminate unnecessary words. The words ''the duration thereof and such other . . . conditions, and limitations'' are omitted as surplus.

In subsection (c)(1), the words ''may apply to'' are substituted for ''may file with . . . an application'' to eliminate unnecessary words. The words ''in accordance with regulations prescribed by the Secretary of Transportation'' are omitted because of 49:322(a). The words ''the duration of such certificate, the type of service for which the aircraft may be used, and such other . . . conditions, and limitations'' are omitted as surplus.

In subsection (c)(2), the words ''having a property interest'' are substituted for ''who are holders of property interests'' to eliminate unnecessary words.

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

AMENDMENTS

2005—Subsec. (a)(1) to (3). Pub. L. 109–59, § 4405(1)–(3), (5), (6), inserted par. headings, realigned margins, and substituted ''Except as provided in paragraph (4), if'' for ''If'' in par. (3).

Subsec. (a)(4). Pub. L. 109–59, § 4405(4), added par. (4).

2003—Pub. L. 108–176, § 227(e)(1), added section catchline and struck out former section catchline which read as follows: ''Type certificates, production certificates, and airworthiness certificates''.

Subsec. (a)(3). Pub. L. 108–176, § 811, added par. (3).

Subsec. (e). Pub. L. 108–176, § 227(b)(2), added subsec. (e).

1996—Subsecs. (b) to (d). Pub. L. 104–264 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

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 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

PLAN FOR DEVELOPMENT AND OVERSIGHT OF SYSTEM FOR CERTIFICATION OF DESIGN ORGANIZATIONS

Pub. L. 108–176, title II, § 227(b)(1), Dec. 12, 2003, 117 Stat. 2531, provided that: ''Not later than 4 years after the date of enactment of this Act [Dec. 12, 2003], the Administrator of the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for the development and oversight of a system for certification of design organizations to certify compliance with the requirements and minimum standards prescribed under section 44701(a) of title 49, United States Code, for the type certification of aircraft, aircraft engines, propellers, or appliances.''

§ 44705. Air carrier operating certificates

The Administrator of the Federal Aviation Administration shall issue an air carrier operating certificate to a person desiring to operate as an air carrier when the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part. An air carrier operating certificate shall—

(1) contain terms necessary to ensure safety in air transportation; and

(2) specify the places to and from which, and the airways of the United States over which, a person may operate as an air carrier.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1189.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44705	49 App.:1424(b). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, § 604(b), 72 Stat. 778. Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, the word ''Administrator'' in section 604(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 778) is retained on authority of 49:106(g). Before clause (1), the words ''may file with the Secretary of Transportation an application for an air carrier operating certificate'' and ''the requirements of''

are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''. In clause (1), the words ''conditions, and limitations . . . reasonably'' are omitted as surplus. In clause (2), the word ''places'' is substituted for ''points'' for consistency in the revised title. The words ''under an air carrier operating certificate'' are omitted as surplus.

§ 44706. Airport operating certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airport operating certificate to a person desiring to operate an airport—

(1) that serves an air carrier operating aircraft designed for at least 31 passenger seats;

(2) that is not located in the State of Alaska and serves any scheduled passenger operation of an air carrier operating aircraft designed for more than 9 passenger seats but less than 31 passenger seats; and

(3) that the Administrator requires to have a certificate;

if the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part.

(b) TERMS.—An airport operating certificate issued under this section shall contain terms necessary to ensure safety in air transportation. Unless the Administrator decides that it is not in the public interest, the terms shall include conditions related to—

(1) operating and maintaining adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any part of the airport used for landing, takeoff, or surface maneuvering of an aircraft; and

(2) friction treatment for primary and secondary runways that the Secretary of Transportation decides is necessary.

(c) EXEMPTIONS.—The Administrator may exempt from the requirements of this section, related to firefighting and rescue equipment, an operator of an airport described in subsection (a) of this section having less than .25 percent of the total number of passenger boardings each year at all airports described in subsection (a) when the Administrator decides that the requirements are or would be unreasonably costly, burdensome, or impractical.

(d) COMMUTER AIRPORTS.—In developing the terms required by subsection (b) for airports covered by subsection (a)(2), the Administrator shall identify and consider a reasonable number of regulatory alternatives and select from such alternatives the least costly, most cost-effective or the least burdensome alternative that will provide comparable safety at airports described in subsections (a)(1) and (a)(2).

(e) EFFECTIVE DATE.—Any regulation establishing the terms required by subsection (b) for airports covered by subsection (a)(2) shall not take effect until such regulation, and a report on the economic impact of the regulation on air service to the airports covered by the rule, has been submitted to Congress and 120 days have elapsed following the date of such submission.

(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this title may be construed as requiring a person to obtain an airport operating certificate if such person does not desire to operate an airport described in subsection (a).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1189; Pub. L. 104–264, title IV, § 404, Oct. 9, 1996, 110 Stat. 3256.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44706(a)	49 App.:1432(b) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 612(b); added May 21, 1970, Pub. L. 91–258, § 51(b)(1), 84 Stat. 234; Nov. 27, 1971, Pub. L. 92–174, § 5(b), 85 Stat. 492; Sept. 3, 1982, Pub. L. 97–248, §§ 524(f), 525(b), 96 Stat. 697.
44706(b)	49 App.:1432(b) (3d, last sentences).	
44706(c)	49 App.:1432(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 612(c); added July 12, 1976, Pub. L. 94–353, § 19(a), 90 Stat. 883; Sept. 3, 1982, Pub. L. 97–248, § 525(c), 96 Stat. 697.

In subsection (a), before clause (1), the words ''may file with the Administrator an application for an airport operating certificate'' are omitted as surplus. In clause (3), the words ''the requirements of'' are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''.

In subsection (b), before clause (1), the words ''conditions, and limitations . . . reasonably'' are omitted as surplus. In clause (2), the words ''grooving or other'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–264, § 404(a), added par. (2), redesignated former par. (2) as (3), substituted ''if'' for ''(3) when'' in former par. (3) and adjusted the margins of that par. to make it a flush provision following par. (3).

Subsec. (d). Pub. L. 104–264, § 404(b), added subsec. (d).

Subsec. (e). Pub. L. 104–264, § 404(c), added subsec. (e).

Subsec. (f). Pub. L. 104–264, § 404(d), added subsec. (f).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

IMPROVEMENT OF RUNWAY SAFETY AREAS

Pub. L. 109–115, div. A, title I, Nov. 30, 2005, 119 Stat. 2401, provided in part: ''That not later than December 31, 2015, the owner or operator of an airport certificated under 49 U.S.C. 44706 shall improve the airport's runway safety areas to comply with the Federal Aviation Administration design standards required by 14 CFR part 139: *Provided further*, That the Federal Aviation Administration shall report annually to the Congress on the agency's progress toward improving the runway safety areas at 49 U.S.C. 44706 airports.''

SMALL AIRPORT CERTIFICATION

Pub. L. 106–181, title V, § 518, Apr. 5, 2000, 114 Stat. 145, provided that: ''Not later than 60 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator [of the Federal Aviation Administration] shall issue a notice of proposed rulemaking on implementing section 44706(a)(2) of title 49, United States Code, relating to issuance of airport operating certificates for small scheduled passenger air carrier operations. Not later than 1 year after the last day of the period for public comment provided for in the notice of proposed rulemaking, the Administrator shall issue a final rule on implementing such program.''

§ 44707. Examining and rating air agencies

The Administrator of the Federal Aviation Administration may examine and rate the following air agencies:

(1) civilian schools giving instruction in flying or repairing, altering, and maintaining aircraft, aircraft engines, propellers, and appliances, on the adequacy of instruction, the suitability and airworthiness of equipment, and the competency of instructors.

(2) repair stations and shops that repair, alter, and maintain aircraft, aircraft engines, propellers, and appliances, on the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of the individuals doing the work or giving instruction in the work.

(3) other air agencies the Administrator decides are necessary in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1190.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44707	49 App.:1427 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 607 (1st sentence), 72 Stat. 779.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, the word ''Administrator'' in section 607 (1st sentence) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g). In clauses (1) and (2), the word ''overhaul'' is omitted as surplus. In clause (1), the words ''course of'' are omitted as surplus. In clause (3), the words ''in his opinion'' are omitted as surplus.

AIRCRAFT REPAIR AND MAINTENANCE ADVISORY PANEL

Pub. L. 106–181, title VII, § 734, Apr. 5, 2000, 114 Stat. 170, provided that:

''(a) ESTABLISHMENT OF PANEL.—The Administrator [of the Federal Aviation Administration]—

''(1) shall establish an aircraft repair and maintenance advisory panel to review issues related to the use and oversight of aircraft and aviation component repair and maintenance facilities (in this section referred to as 'aircraft repair facilities') located within, or outside of, the United States; and

''(2) may seek the advice of the panel on any issue related to methods to increase safety by improving the oversight of aircraft repair facilities.

''(b) MEMBERSHIP.—The panel shall consist of—

''(1) nine members appointed by the Administrator as follows:

''(A) three representatives of labor organizations representing aviation mechanics;

''(B) one representative of cargo air carriers;

''(C) one representative of passenger air carriers;

''(D) one representative of aircraft repair facilities;

''(E) one representative of aircraft manufacturers;

''(F) one representative of on-demand passenger air carriers and corporate aircraft operations; and

''(G) one representative of regional passenger air carriers;

''(2) one representative from the Department of Commerce, designated by the Secretary of Commerce;

''(3) one representative from the Department of State, designated by the Secretary of State; and

''(4) one representative from the Federal Aviation Administration, designated by the Administrator.

''(c) RESPONSIBILITIES.—The panel shall—

''(1) determine the amount and type of work that is being performed by aircraft repair facilities located within, and outside of, the United States; and

''(2) provide advice and counsel to the Secretary [of Transportation] with respect to the aircraft and aviation component repair work performed by aircraft repair facilities and air carriers, staffing needs, and any balance of trade or safety issues associated with that work.

''(d) DOT TO REQUEST INFORMATION FROM AIR CARRIERS AND REPAIR FACILITIES.—

''(1) COLLECTION OF INFORMATION.—The Secretary, by regulation, shall require air carriers, foreign air carriers, domestic repair facilities, and foreign repair facilities to submit such information as the Secretary may require in order to assess balance of trade and safety issues with respect to work performed on aircraft used by air carriers, foreign air carriers, United States corporate operators, and foreign corporate operators.

''(2) DRUG AND ALCOHOL TESTING INFORMATION.—Included in the information the Secretary requires under paragraph (1) shall be information on the existence and administration of employee drug and alcohol testing programs in place at the foreign repair facilities, if applicable. The Secretary, if necessary, shall work with the International Civil Aviation Organization to increase the number and improve the administration of employee drug and alcohol testing programs at the foreign repair facilities.

''(3) DESCRIPTION OF WORK DONE.—Included in the information the Secretary requires under paragraph (1) shall be information on the amount and type of work performed on aircraft registered in and outside of the United States.

''(e) DOT TO FACILITATE COLLECTION OF INFORMATION ABOUT AIRCRAFT MAINTENANCE.—The Secretary shall facilitate the collection of information from the National Transportation Safety Board, the Federal Aviation Administration, and other appropriate agencies regarding maintenance performed by aircraft repair facilities.

''(f) DOT TO MAKE INFORMATION AVAILABLE TO PUBLIC.—The Secretary shall make any relevant information received under subsection (d) available to the public, consistent with the authority to withhold trade secrets or commercial, financial, and other proprietary information under section 552 of title 5, United States Code.

''(g) TERMINATION.—The panel established under subsection (a) shall terminate on the earlier of—

''(1) the date that is 2 years after the date of the enactment of this Act [Apr. 5, 2000]; or

''(2) December 31, 2001.

''(h) DEFINITIONS.—The definitions contained in section 40102 of title 49, United States Code, shall apply to this section.''

§ 44708. Inspecting and rating air navigation facilities

The Administrator of the Federal Aviation Administration may inspect, classify, and rate an air navigation facility available for the use of civil aircraft on the suitability of the facility for that use.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1190.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44708	49 App.:1426 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 606 (1st sentence), 72 Stat. 779.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The word ''Administrator'' in section 606 (1st sentence) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g).

§ 44709. Amendments, modifications, suspensions, and revocations of certificates

(a) REINSPECTION AND REEXAMINATION.—The Administrator of the Federal Aviation Administration may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, design organization, production certificate holder, air navigation facility, or air agency, or reexamine an airman holding a certificate issued under section 44703 of this title.

(b) ACTIONS OF THE ADMINISTRATOR.—The Administrator may issue an order amending, modifying, suspending, or revoking—

(1) any part of a certificate issued under this chapter if—

(A) the Administrator decides after conducting a reinspection, reexamination, or other investigation that safety in air commerce or air transportation and the public interest require that action; or

(B) the holder of the certificate has violated an aircraft noise or sonic boom standard or regulation prescribed under section 44715(a) of this title; and

(2) an airman certificate when the holder of the certificate is convicted of violating section 13(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j–1(a)).

(c) ADVICE TO CERTIFICATE HOLDERS AND OPPORTUNITY TO ANSWER.—Before acting under subsection (b) of this section, the Administrator shall advise the holder of the certificate of the charges or other reasons on which the Administrator relies for the proposed action. Except in an emergency, the Administrator shall provide the holder an opportunity to answer the charges and be heard why the certificate should not be amended, modified, suspended, or revoked.

(d) APPEALS.—(1) A person adversely affected by an order of the Administrator under this section may appeal the order to the National Transportation Safety Board. After notice and an opportunity for a hearing, the Board may amend, modify, or reverse the order when the Board finds—

(A) if the order was issued under subsection (b)(1)(A) of this section, that safety in air commerce or air transportation and the public interest do not require affirmation of the order; or

(B) if the order was issued under subsection (b)(1)(B) of this section—

(i) that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require affirmation of the order; or

(ii) the order, as it is related to a violation of aircraft noise or sonic boom standards and regulations, is not consistent with safety in air commerce or air transportation.

(2) The Board may modify a suspension or revocation of a certificate to imposition of a civil penalty.

(3) When conducting a hearing under this subsection, the Board is not bound by findings of fact of the Administrator but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—

(1) IN GENERAL.—When a person files an appeal with the Board under subsection (d), the order of the Administrator is stayed.

(2) EXCEPTION.—Notwithstanding paragraph (1), the order of the Administrator is effective immediately if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately.

(3) REVIEW OF EMERGENCY ORDER.—A person affected by the immediate effectiveness of the Administrator's order under paragraph (2) may petition for a review by the Board, under procedures promulgated by the Board, of the Administrator's determination that an emergency exists. Any such review shall be requested not later than 48 hours after the order is received by the person. If the Board finds that an emergency does not exist that requires the immediate application of the order in the interest of safety in air commerce or air transportation, the order shall be stayed, notwithstanding paragraph (2). The Board shall dispose of a review request under this paragraph not later than 5 days after the date on which the request is filed.

(4) FINAL DISPOSITION.—The Board shall make a final disposition of an appeal under subsection (d) not later than 60 days after the date on which the appeal is filed.

(f) JUDICIAL REVIEW.—A person substantially affected by an order of the Board under this section, or the Administrator when the Administrator decides that an order of the Board under this section will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1190; Pub. L. 106–181, title VII, § 716, Apr. 5, 2000, 114 Stat. 162; Pub. L. 108–176, title II, § 227(c), Dec. 12, 2003, 117 Stat. 2532.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44709(a)	49 App.:1429(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 609(a) (1st–7th sentences, 8th–last sentences less Administrator under title VII), 72 Stat. 779; Nov. 18, 1971, Pub. L. 92–159, § 2(a), 85 Stat. 481; Nov. 27, 1971, Pub. L. 92–174, § 6, 85 Stat. 492; Aug. 26, 1992, Pub. L. 102–345, § 3(a)(1), 106 Stat. 925.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44709(b)	49 App.:1429(a) (2d sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1429(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 609(b); added Nov. 18, 1971, Pub. L. 92–159, § 2(a), 85 Stat. 481.
	49 App.:1431(e) (words before 4th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 611(e); added July 21, 1968, Pub. L. 90–411, § 1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, § 7(b), 86 Stat. 1241.
	49 App.:1655(c)(1).	
44709(c)	49 App.:1429(a) (3d sentence).	
	49 App.:1431(e) (words between 4th and 5th commas).	
	49 App.:1655(c)(1).	
44709(d)(1) ..	49 App.:1429(a) (4th sentence).	
	49 App.:1431(e) (words after 4th comma).	
44709(d)(2) ..	49 App.:1429(a) (6th sentence).	
44709(d)(3) ..	49 App.:1429(a) (5th sentence).	
	49 App.:1655(c)(1).	
44709(e)	49 App.:1429(a) (7th sentence).	
	49 App.:1655(c)(1).	
44709(f)	49 App.:1429(a) (8th–last sentences less Administrator under subch. VII).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 609(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g). The words ''modifying'', ''modify'', and ''modified'' are omitted as surplus.

In subsection (a), the words ''airman holding a certificate issued under section 44703 of this title'' are substituted for ''civil airman'' for clarity.

In subsection (b)(1), before subclause (A), the words ''certificate issued under this chapter'' are substituted for ''type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate (including airport operating certificate), or air agency certificate'' to eliminate unnecessary words.

In subsection (b)(2), the words ''in his discretion'' and ''regarding the use or operation of an aircraft'' in 49 App.:1429(b) are omitted as surplus.

In subsection (c), the words ''cases of'' in 49 App.:1429(a) are omitted as surplus.

In subsection (d)(1), before clause (A), the word ''adversely'' is substituted for ''whose certificate is'' in 49 App.:1429(a), and the words ''an opportunity for a'' are added, for consistency in the revised title and with other titles of the United States Code. The words ''of the FAA'' in 49 App.:1431(e) are omitted as surplus.

In subsection (d)(2), the words ''consistent with this subsection'' are omitted as surplus.

In subsection (d)(3), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g).

In subsection (e), before clause (1), the words ''the effectiveness of'' are omitted as surplus.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176 inserted ''design organization, production certificate holder,'' after ''appliance,''.

2000—Subsec. (e). Pub. L. 106–181 amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: ''When a person files an appeal with the Board under subsection (d) of the section, the order of the Administrator is stayed. However, if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately—

''(1) the order is effective; and

''(2) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.''

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 44710. Revocations of airman certificates for controlled substance violations

(a) DEFINITION.—In this section, ''controlled substance'' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATION.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking an airman certificate issued an individual under section 44703 of this title after the individual is convicted, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), of an offense punishable by death or imprisonment for more than one year if the Administrator finds that—

(A) an aircraft was used to commit, or facilitate the commission of, the offense; and

(B) the individual served as an airman, or was on the aircraft, in connection with committing, or facilitating the commission of, the offense.

(2) The Administrator shall issue an order revoking an airman certificate issued an individual under section 44703 of this title if the Administrator finds that—

(A) the individual knowingly carried out an activity punishable, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), by death or imprisonment for more than one year;

(B) an aircraft was used to carry out or facilitate the activity; and

(C) the individual served as an airman, or was on the aircraft, in connection with carrying out, or facilitating the carrying out of, the activity.

(3) The Administrator has no authority under paragraph (1) of this subsection to review whether an airman violated a law of the United States or a State related to a controlled substance.

(c) ADVICE TO HOLDERS AND OPPORTUNITY TO ANSWER.—Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator must—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator relies for the proposed revocation; and

(2) provide the holder of the certificate an opportunity to answer the charges and be heard why the certificate should not be revoked.

(d) APPEALS.—(1) An individual whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and an opportunity for a hearing on the record. When conducting the hearing, the Board is not bound by findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(2) When an individual files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.

(3) An individual substantially affected by an order of the Board under this subsection, or the Administrator when the Administrator decides that an order of the Board will have a significant adverse effect on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(e) ACQUITTAL.—(1) The Administrator may not revoke, and the Board may not affirm a revocation of, an airman certificate under subsection (b)(2) of this section on the basis of an activity described in subsection (b)(2)(A) if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked an airman certificate under this section because of an activity described in subsection (b)(2)(A) of this section, the Administrator shall reissue a certificate to the individual if—

(A) the individual otherwise satisfies the requirements for a certificate under section 44703 of this title; and

(B)(i) the individual subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; or

(ii) the conviction on which a revocation under subsection (b)(1) of this section is based is reversed.

(f) WAIVERS.—The Administrator may waive the requirement of subsection (b) of this section that an airman certificate of an individual be revoked if—

(1) a law enforcement official of the United States Government or of a State requests a waiver; and

(2) the Administrator decides that the waiver will facilitate law enforcement efforts.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1191.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44710(a)	49 App.:1429(c)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 609(c)(1), (2), (4); added Oct. 19, 1984, Pub. L. 98–499, § 2(a), 98 Stat. 2312, 2313.
44710(b)(1) ..	49 App.:1429(c)(1) (1st sentence).	
44710(b)(2) ..	49 App.:1429(c)(2) (1st sentence).	
44710(b)(3) ..	49 App.:1429(c)(1) (last sentence).	
44710(c)	49 App.:1429(c)(3) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 609(c)(3); added Oct. 19, 1984, Pub. L. 98–499, § 2(a), 98 Stat. 2312; Aug. 26, 1992, Pub. L. 102–345, § 3(b), 106 Stat. 926.
44710(d)	49 App.:1429(c)(3) (2d–last sentences).	
44710(e)(1) ..	49 App.:1429(c)(2) (last sentence).	
44710(e)(2) ..	49 App.:1422(b)(2)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 602(b)(2)(C); added Oct. 19, 1984, Pub. L. 98–499, § 3, 98 Stat. 2313.
44710(f)	49 App.:1429(c)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 609(c)(5); added Nov. 18, 1988, Pub. L. 100–690, § 7204(b), 102 Stat. 4425.

In subsection (b)(1) and (2), before each clause (A), the words ''of any person'' are omitted as surplus. The words ''issued . . . under section 44703 of this title'' are added for clarity.

In subsection (b)(1), the word ''offense'' is substituted for ''crime'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(2)(C), the words ''in connection with carrying out, or facilitating the carrying out of, the activity'' are substituted for ''in connection with such activity or the facilitation of such activity'' for consistency with the source provisions restated in paragraph (1)(B) of this subsection.

In subsection (d)(1), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g).

In subsection (e)(1), the words ''on appeal'' and ''contained'' are omitted as surplus.

In subsection (e)(2)(B)(i), the word ''contained'' is omitted as surplus.

In subsection (e)(2)(B)(ii), the words ''judgment of'' are omitted as surplus.

§ 44711. Prohibitions and exemption

(a) PROHIBITIONS.—A person may not—

(1) operate a civil aircraft in air commerce without an airworthiness certificate in effect or in violation of a term of the certificate;

(2) serve in any capacity as an airman with respect to a civil aircraft, aircraft engine, propeller, or appliance used, or intended for use, in air commerce—

(A) without an airman certificate authorizing the airman to serve in the capacity for which the certificate was issued; or

(B) in violation of a term of the certificate or a regulation prescribed or order issued under section 44701(a) or (b) or any of sections 44702–44716 of this title;

(3) employ for service related to civil aircraft used in air commerce an airman who does not have an airman certificate authorizing the airman to serve in the capacity for which the airman is employed;

(4) operate as an air carrier without an air carrier operating certificate or in violation of a term of the certificate;

(5) operate aircraft in air commerce in violation of a regulation prescribed or certificate issued under section 44701(a) or (b) or any of sections 44702–44716 of this title;

(6) operate a seaplane or other aircraft of United States registry on the high seas in violation of a regulation under section 3 of the International Navigational Rules Act of 1977 (33 U.S.C. 1602);

(7) violate a term of an air agency, design organization certificate, or production certificate or a regulation prescribed or order issued under section 44701(a) or (b) or any of sections 44702–44716 of this title related to the holder of the certificate;

(8) operate an airport without an airport operating certificate required under section 44706 of this title or in violation of a term of the certificate; or

(9) manufacture, deliver, sell, or offer for sale any aviation fuel or additive in violation of a regulation prescribed under section 44714 of this title.

(b) EXEMPTION.—On terms the Administrator of the Federal Aviation Administration prescribes as being in the public interest, the Administrator may exempt a foreign aircraft and airmen serving on the aircraft from subsection (a) of this section. However, an exemption from observing air traffic regulations may not be granted.

(c) PROHIBITION ON EMPLOYMENT OF CONVICTED COUNTERFEIT PART TRAFFICKERS.—No person subject to this chapter may knowingly employ anyone to perform a function related to the procurement, sale, production, or repair of a part or material, or the installation of a part into a civil aircraft, who has been convicted in a court of law of a violation of any Federal law relating to the installation, production, repair, or sale of a counterfeit or fraudulently-represented aviation part or material.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1193; Pub. L. 103–429, § 6(56), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 106–181, title V, § 505(b), Apr. 5, 2000, 114 Stat. 136; Pub. L. 108–176, title II, § 227(d), Dec. 12, 2003, 117 Stat. 2532.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44711(a)(1) ..	49 App.:1430(a)(1).	Aug. 23, 1958, Pub. L. 85–726, § 610(a)(1)–(5), (b), 72 Stat. 780.
44711(a)(2) ..	49 App.:1430(a)(2).	
44711(a)(3) ..	49 App.:1430(a)(3).	
44711(a)(4) ..	49 App.:1430(a)(4).	
44711(a)(5) ..	49 App.:1430(a)(5).	
44711(a)(6) ..	49 App.:1430(a)(6).	Aug. 23, 1958, Pub. L. 85–726, § 610(a)(6), 72 Stat. 780; May 21, 1970, Pub. L. 91–258, § 51(b)(3)(A), 84 Stat. 235.
44711(a)(7) ..	49 App.:1430(a)(7).	Aug. 23, 1958, Pub. L. 85–726, § 610(a)(7), 72 Stat. 780; May 21, 1970, Pub. L. 91–258, § 51(b)(3)(B), 84 Stat. 235; Dec. 31, 1970, Pub. L. 91–604, § 11(b)(2), 84 Stat. 1705.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44711(a)(8) ..	49 App.:1430(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 610(a)(8); added May 21, 1970, Pub. L. 91–258, § 51(b)(3)(C), 84 Stat. 235; Dec. 31, 1970, Pub. L. 91–604, § 11(b)(2), 84 Stat. 1705; restated Sept. 3, 1982, Pub. L. 97–248, § 525(d), 96 Stat. 697.
44711(a)(9) ..	49 App.:1430(a)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 610(a)(9); added Dec. 31, 1970, Pub. L. 91–604, § 11(b)(2), 84 Stat. 1705; Nov. 9, 1977, Pub. L. 95–163, § 15(b)(2), 91 Stat. 1283.
44711(b)	49 App.:1430(b). 49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In subsection (a)(1) and (7), the words ''condition, or limitation'' are omitted as being included in ''term''.

In subsection (a)(1), the words ''without . . . in effect'' are substituted for ''for which there is not currently in effect an'' to eliminate unnecessary words.

In subsection (a)(2), (5), and (7), the word ''rule'' is omitted as being synonymous with ''regulations''.

In subsection (a)(2)(B), the word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(5) and (7), the words ''prescribed . . . issued'' are added for consistency in the revised title and with other titles of the Code.

In subsection (a)(5), the words ''of the Secretary of Transportation'' are omitted as surplus.

In subsection (a)(6), the words ''proclaimed by the President'' are omitted as surplus. The words ''section 3 of the International Navigational Rules Act of 1977 (33 U.S.C. 1602)'' are substituted for ''section 143 of title 33'' because the section was part of the Act of October 11, 1951 (ch. 495, 65 Stat. 406), that was repealed by section 3 of the Act of September 24, 1963 (Public Law 88–131, 77 Stat. 194), and replaced by 33:ch. 21. Chapter 21 was repealed by section 10 of the International Navigational Rules Act of 1977 (Public Law 95–75, 91 Stat. 311) and replaced by 33:1601–1608.

In subsection (a)(7), the words ''holding . . . such certificate'' are omitted because of the restatement.

In subsection (a)(8), the words ''by the Administrator'' are omitted as surplus.

In subsection (b), the word ''Administrator'' in section 610(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 780) is retained on authority of 49:106(g). The words ''to the extent, and . . . and conditions'' and ''by such airmen'' are omitted as surplus.

PUB. L. 103–429

This amends 49:44711(a)(2)(B), (5), and (7) and 46310(b) to correct erroneous cross-references.

AMENDMENTS

2003—Subsec. (a)(7). Pub. L. 108–176 substituted ''agency, design organization certificate,'' for ''agency''.

2000—Subsec. (c). Pub. L. 106–181 added subsec. (c).

1994—Subsec. (a)(2)(B), (5), (7). Pub. L. 103–429 inserted ''any of sections'' before ''44702–44716''.

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 44712. Emergency locator transmitters

(a) INSTALLATION.—An emergency locator transmitter must be installed on a fixed-wing powered civil aircraft for use in air commerce.

(b) NONAPPLICATION.—Prior to January 1, 2002, subsection (a) does not apply to—

(1) turbojet-powered aircraft;

(2) aircraft when used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

(3) aircraft when used in training operations conducted entirely within a 50 mile radius of the airport from which the training operations begin;

(4) aircraft when used in flight operations related to design and testing, the manufacture, preparation, and delivery of the aircraft, or the aerial application of a substance for an agricultural purpose;

(5) aircraft holding certificates from the Administrator of the Federal Aviation Administration for research and development;

(6) aircraft when used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and

(7) aircraft equipped to carry only one individual.

(c) NONAPPLICATION BEGINNING ON JANUARY 1, 2002.—

(1) IN GENERAL.—Subject to paragraph (2), on and after January 1, 2002, subsection (a) does not apply to—

(A) aircraft when used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

(B) aircraft when used in training operations conducted entirely within a 50-mile radius of the airport from which the training operations begin;

(C) aircraft when used in flight operations related to the design and testing, manufacture, preparation, and delivery of aircraft;

(D) aircraft when used in research and development if the aircraft holds a certificate from the Administrator of the Federal Aviation Administration to carry out such research and development;

(E) aircraft when used in showing compliance with regulations, crew training, exhibition, air racing, or market surveys;

(F) aircraft when used in the aerial application of a substance for an agricultural purpose;

(G) aircraft with a maximum payload capacity of more than 18,000 pounds when used in air transportation; or

(H) aircraft equipped to carry only one individual.

(2) DELAY IN IMPLEMENTATION.—The Administrator of the Federal Aviation Administration may continue to implement subsection (b) rather than subsection (c) for a period not to exceed 2 years after January 1, 2002, if the Administrator finds such action is necessary to promote—

(A) a safe and orderly transition to the operation of civil aircraft equipped with an emergency locator; or

(B) other safety objectives.

(d) COMPLIANCE.—An aircraft meets the requirement of subsection (a) if it is equipped with an emergency locator transmitter that transmits on the 121.5/243 megahertz frequency or the 406 megahertz frequency or with other equipment approved by the Secretary for meeting the requirement of subsection (a).

(e) REMOVAL.—The Administrator shall prescribe regulations specifying the conditions under which an aircraft subject to subsection (a) of this section may operate when its emergency locator transmitter has been removed for inspection, repair, alteration, or replacement.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1194; Pub. L. 106–181, title V, § 501(a), Apr. 5, 2000, 114 Stat. 131.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44712(a)	49 App.:1421(d)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(d)(1); added Dec. 29, 1970, Pub. L. 91–596, § 31, 84 Stat. 1619; restated Jan. 2, 1974, Pub. L. 93–239, § 4, 87 Stat. 1048; Nov. 9, 1977, Pub. L. 95–163, § 15(a)(1), 91 Stat. 1283.
44712(b)	49 App.:1421(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(d)(2); added Dec. 29, 1970, Pub. L. 91–596, § 31, 84 Stat. 1619; restated Jan. 2, 1974, Pub. L. 93–239, § 4, 87 Stat. 1048.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
44712(c)	49 App.:1421(d)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(d)(3); added Nov. 9, 1977, Pub. L. 95–163, § 15(a)(2), 91 Stat. 1283.

In subsection (a), the words ''Except with respect to aircraft described in paragraph (2) of this subsection and except as provided in paragraph (3) of this subsection'' are omitted as surplus. The words ''minimum standards pursuant to this section shall include a requirement that'', the text of 49 App.:1421(d)(1)(A), and the words ''after three years and six months following such date'' are omitted as executed.

In subsection (b), the word ''used'' is substituted for ''engaged'' for consistency. In clause (3), the word ''training'' is substituted for ''local flight'' for consistency. In clause (4), the words ''chemicals and other'' are omitted as surplus. In clause (5), the word ''purposes'' is omitted as surplus.

In subsection (c), the words ''prescribe regulations'' are substituted for ''shall issue regulations . . . as he prescribes in such regulations'' to eliminate unnecessary words. The words ''such limitations and'' and ''from such aircraft'' are omitted as surplus.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–181, § 501(a)(1), substituted ''Prior to January 1, 2002, subsection (a)'' for ''Subsection (a) of this section'' in introductory provisions.

Subsecs. (c) to (e). Pub. L. 106–181, § 501(a)(2), (3), added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of

Pub. L. 106–181, set out as a note under section 106 of this title.

REGULATIONS

Pub. L. 106–181, title V, § 501(b), Apr. 5, 2000, 114 Stat. 132, provided that: ''The Secretary [of Transportation] shall issue regulations to carry out section 44712(c) of title 49, United States Code, as amended by this section, not later than January 1, 2001.''

§ 44713. Inspection and maintenance

(a) GENERAL EQUIPMENT REQUIREMENTS.—An air carrier shall make, or cause to be made, any inspection, repair, or maintenance of equipment used in air transportation as required by this part or regulations prescribed or orders issued by the Administrator of the Federal Aviation Administration under this part. A person operating, inspecting, repairing, or maintaining the equipment shall comply with those requirements, regulations, and orders.

(b) DUTIES OF INSPECTORS.—The Administrator of the Federal Aviation Administration shall employ inspectors who shall—

(1) inspect aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture and when in use by an air carrier in air transportation, to enable the Administrator to decide whether the aircraft, aircraft engines, propellers, or appliances are in safe condition and maintained properly; and

(2) advise and cooperate with the air carrier during that inspection and maintenance.

(c) UNSAFE AIRCRAFT, ENGINES, PROPELLERS, AND APPLIANCES.—When an inspector decides that an aircraft, aircraft engine, propeller, or appliance is not in condition for safe operation, the inspector shall notify the air carrier in the form and way prescribed by the Administrator of the Federal Aviation Administration. For 5 days after the carrier is notified, the aircraft, engine, propeller, or appliance may not be used in air transportation or in a way that endangers air transportation unless the Administrator or the inspector decides the aircraft, engine, propeller, or appliance is in condition for safe operation.

(d) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for processing forms for major repairs or alterations to fuel tanks and fuel systems of aircraft not used to provide air transportation that are necessary to make the system more effective in serving the needs of users of the system, including officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The modifications shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) the lack of a special identification feature to allow the forms to be distinguished easily from other major repair and alteration forms.

(B) the excessive period of time required to receive the forms at the Airmen and Aircraft Registry of the Administration.

(C) the backlog of forms waiting for processing at the Registry.

(D) the lack of ready access by law enforcement officials to information contained on the forms.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(e) AUTOMATED SURVEILLANCE TARGETING SYSTEMS.—

(1) IN GENERAL.—The Administrator shall give high priority to developing and deploying a fully enhanced safety performance analysis system that includes automated surveillance to assist the Administrator in prioritizing and targeting surveillance and inspection activities of the Federal Aviation Administration.

(2) DEADLINES FOR DEPLOYMENT.—

(A) INITIAL PHASE.—The initial phase of the operational deployment of the system developed under this subsection shall begin not later than December 31, 1997.

(B) FINAL PHASE.—The final phase of field deployment of the system developed under this subsection shall begin not later than December 31, 1999. By that date, all principal operations and maintenance inspectors of the Administration, and appropriate supervisors and analysts of the Administration shall have been provided access to the necessary information and resources to carry out the system.

(3) INTEGRATION OF INFORMATION.—In developing the system under this section, the Administration shall consider the near-term integration of accident and incident data into the safety performance analysis system under this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1194; Pub. L. 104–264, title IV, § 407(b), Oct. 9, 1996, 110 Stat. 3258.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44713(a)	49 App.:1425(a).	Aug. 23, 1958, Pub. L. 85–726, § 605(a), (b), 72 Stat. 778.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44713(b)	49 App.:1425(b) (1st sentence).	
	49 App.:1655(c)(1).	
44713(c)	49 App.:1425(b) (last sentence).	
	49 App.:1655(c)(1).	
44713(d)(1) ..	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
	49 App.:1425(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 605(c); added Nov. 18, 1988, Pub. L. 100–690, § 7206(a), 102 Stat. 4426.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44713(d)(2) ..	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7207(a) (1st sentence), (b), 102 Stat. 4427.

In subsections (a)–(c), the word ''Administrator'' in section 605(a) and (b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 778) is retained on authority of 49:106(g).

In subsection (a), the word ''overhaul'' is omitted as being included in ''repair''. The word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The words ''A person operating, inspecting, overhauling, or maintaining the equipment shall comply with those requirements, regulations, and orders'' are substituted for 49 App.:1425(a) (last sentence) to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''be charged with the duty . . . of'' are omitted as surplus. In clause (1), the words ''in use'' are substituted for ''used by an air carrier in air transportation'' to eliminate unnecessary words. The words ''as may be necessary'' and ''for operation in air transportation'' are omitted as surplus.

In subsection (c), the words ''in the performance of his duty'', ''used or intended to be used by any air carrier in air transportation'', and ''a period of'' are omitted as surplus.

In subsection (d)(1), before clause (A), the words ''not used to provide air transportation'' are substituted for section 7214 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat. 4434) because of the restatement.

In subsection (d)(2), the words ''Not later than September 18, 1989'' and ''final'' are omitted as obsolete. The words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words ''Commissioner of Customs'' are substituted for ''United States Customs Service'' because of 19:2071.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–264 added subsec. (e).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44714. Aviation fuel standards

The Administrator of the Federal Aviation Administration shall prescribe—

(1) standards for the composition or chemical or physical properties of an aircraft fuel or fuel additive to control or eliminate aircraft emissions the Administrator of the Environmental Protection Agency decides under section 231 of the Clean Air Act (42 U.S.C. 7571) endanger the public health or welfare; and

(2) regulations providing for carrying out and enforcing those standards.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1195.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44714	49 App.:1421(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(e); added Dec. 31, 1970, Pub. L. 91–604, § 11(b)(1), 84 Stat. 1705; Nov. 9, 1977, Pub. L. 95–163, § 15(b)(1), 91 Stat. 1283.

In this section, before clause (1), the words ''and from time to time revise'' are omitted as surplus. In clause (1), the words ''establishing'' and ''the purpose of'' are omitted as surplus.

§ 44715. Controlling aircraft noise and sonic boom

(a) STANDARDS AND REGULATIONS.—(1)(A) To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration, as he deems necessary, shall prescribe—

(i) standards to measure aircraft noise and sonic boom; and

(ii) regulations to control and abate aircraft noise and sonic boom.

(B) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.

(2) The Administrator of the Federal Aviation Administration may prescribe standards and regulations under this subsection only after consulting with the Administrator of the Environmental Protection Agency. The standards and regulations shall be applied when issuing, amending, modifying, suspending, or revoking a certificate authorized under this chapter.

(3) An original type certificate may be issued under section 44704(a) of this title for an aircraft for which substantial noise abatement can be achieved only after the Administrator of the Federal Aviation Administration prescribes standards and regulations under this section that apply to that aircraft.

(b) CONSIDERATIONS AND CONSULTATION.—When prescribing a standard or regulation under this section, the Administrator of the Federal Aviation Administration shall—

(1) consider relevant information related to aircraft noise and sonic boom;

(2) consult with appropriate departments, agencies, and instrumentalities of the United States Government and State and interstate authorities;

(3) consider whether the standard or regulation is consistent with the highest degree of safety in air transportation or air commerce in the public interest;

(4) consider whether the standard or regulation is economically reasonable, technologically practicable, and appropriate for the

applicable aircraft, aircraft engine, appliance, or certificate; and

(5) consider the extent to which the standard or regulation will carry out the purposes of this section.

(c) PROPOSED REGULATIONS OF ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency shall submit to the Administrator of the Federal Aviation Administration proposed regulations to control and abate aircraft noise and sonic boom (including control and abatement through the use of the authority of the Administrator of the Federal Aviation Administration) that the Administrator of the Environmental Protection Agency considers necessary to protect the public health and welfare. The Administrator of the Federal Aviation Administration shall consider those proposed regulations and shall publish them in a notice of proposed regulations not later than 30 days after they are received. Not later than 60 days after publication, the Administrator of the Federal Aviation Administration shall begin a hearing at which interested persons are given an opportunity for oral and written presentations. Not later than 90 days after the hearing is completed and after consulting with the Administrator of the Environmental Protection Agency, the Administrator of the Federal Aviation Administration shall—

(1) prescribe regulations as provided by this section—

(A) substantially the same as the proposed regulations submitted by the Administrator of the Environmental Protection Agency; or

(B) that amend the proposed regulations; or

(2) publish in the Federal Register—

(A) a notice that no regulation is being prescribed in response to the proposed regulations of the Administrator of the Environmental Protection Agency;

(B) a detailed analysis of, and response to, all information the Administrator of the Environmental Protection Agency submitted with the proposed regulations; and

(C) a detailed explanation of why no regulation is being prescribed.

(d) CONSULTATION AND REPORTS.—(1) If the Administrator of the Environmental Protection Agency believes that the action of the Administrator of the Federal Aviation Administration under subsection (c)(1)(B) or (2) of this section does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations in subsection (b) of this section, the Administrator of the Environmental Protection Agency shall consult with the Administrator of the Federal Aviation Administration and may request a report on the advisability of prescribing the regulation as originally proposed. The request, including a detailed statement of the information on which the request is based, shall be published in the Federal Register.

(2) The Administrator of the Federal Aviation Administration shall report to the Administrator of the Environmental Protection Agency within the time, if any, specified in the request. However, the time specified must be at least 90 days after the date of the request. The report shall—

(A) be accompanied by a detailed statement of the findings of the Administrator of the Federal Aviation Administration and the reasons for the findings;

(B) identify any statement related to an action under subsection (c) of this section filed under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(C) specify whether and where that statement is available for public inspection; and

(D) be published in the Federal Register unless the request proposes specific action by the Administrator of the Federal Aviation Administration and the report indicates that action will be taken.

(e) SUPPLEMENTAL REPORTS.—The Administrator of the Environmental Protection Agency may request the Administrator of the Federal Aviation Administration to file a supplemental report if the report under subsection (d) of this section indicates that the proposed regulations under subsection (c) of this section, for which a statement under section 102(2)(C) of the Act (42 U.S.C. 4332(2)(C)) is not required, should not be prescribed. The supplemental report shall be published in the Federal Register within the time the Administrator of the Environmental Protection Agency specifies. However, the time specified must be at least 90 days after the date of the request. The supplemental report shall contain a comparison of the environmental effects, including those that cannot be avoided, of the action of the Administrator of the Federal Aviation Administration and the proposed regulations of the Administrator of the Environmental Protection Agency.

(f) EXEMPTIONS.—An exemption from a standard or regulation prescribed under this section may be granted only if, before granting the exemption, the Administrator of the Federal Aviation Administration consults with the Administrator of the Environmental Protection Agency. However, if the Administrator of the Federal Aviation Administration finds that safety in air transportation or air commerce requires an exemption before the Administrator of the Environmental Protection Agency can be consulted, the exemption may be granted. The Administrator of the Federal Aviation Administration shall consult with the Administrator of the Environmental Protection Agency as soon as practicable after the exemption is granted.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1196; Pub. L. 104–264, title IV, §406(a), Oct. 9, 1996, 110 Stat. 3257.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44715(a)(1), (2).	49 App.:1431(a), (b)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §611(a), (b), (d); added July 21, 1968, Pub. L. 90–411, §1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, §7(b), 86 Stat. 1239, 1241.
44715(a)(3) ..	49 App.:1431(b)(2).	
44715(b)	49 App.:1431(d).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44715(c)	49 App.:1431(c)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 611(c); added July 21, 1968, Pub. L. 90–411, § 1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, § 7(b), 86 Stat. 1240; Nov. 8, 1978, Pub. L. 95–609, § 3, 92 Stat. 3080.
44715(d)	49 App.:1431(c)(2).	
44715(e)	49 App.:1431(c)(3).	
44715(f)	49 App.:1431(b)(1) (last sentence).	

In subsection (a)(1), before clause (A), the text of 49 App.:1431(a) is omitted because the revised section identifies the appropriate Administrator each time the Administrator is mentioned. The words ''present and future'' and ''and amend'' are omitted as surplus. In clause (B), the words ''as the FAA may find necessary to provide'' are omitted as surplus.

In subsection (a)(2), the word ''only'' is added for clarity.

Subsection (a)(3) is substituted for 49 App.:1431(b)(2) to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''and amending'' are omitted as surplus. In clause (1), the words ''available . . . including the results of research, development, testing, and evaluation activities conducted pursuant to this chapter and the Department of Transportation Act'' are omitted as surplus. In clause (2), the words ''departments, agencies, and instrumentalities of the United States Government and State and interstate authorities'' are substituted for ''Federal, State, and interstate agencies'' for consistency in the revised title and with other titles of the United States Code. The words ''as he deems'' are omitted as surplus. In clauses (3) and (4), the word ''proposed'' is omitted as surplus. In clause (4), the word ''applicable'' is substituted for ''particular type of . . . to which it will apply'' to eliminate unnecessary words. In clause (5), the words ''contribute to'' are omitted as surplus.

In subsection (c), before clause (1), the words ''Not earlier than the date of submission of the report required by section 4906 of title 42'' are omitted as executed. The words ''regulatory . . . over air commerce or transportation or over aircraft or airport operations'' and ''submitted by the EPA under this paragraph'' are omitted as surplus. The word ''regulations'' is substituted for ''rulemaking'' for consistency in the revised title. The words ''after they are received'' are substituted for ''of the date of its submission to the FAA'' to eliminate unnecessary words. The words ''of data, views, and arguments'' are omitted as surplus. In clause (1), the words ''in accordance with subsection (b) of this section'' are omitted because of the restatement. In clause (2)(B), the words ''documentation or other'' are omitted as surplus.

In subsection (d)(1), the words ''listed'' and ''the FAA to review, and . . . to EPA . . . by EPA'' are omitted as surplus.

In subsection (d)(2), before clause (A), the words ''shall complete the review requested and'' are omitted as surplus. In clause (B), the words ''of the FAA'' are omitted as surplus.

In subsection (e), the words ''actually taken . . . in response to EPA's proposed regulations'' are omitted as surplus.

In subsection (f), the words ''under any provision of this chapter'' and ''that . . . be granted'' are omitted as surplus. The words ''the exemption may be granted'' are added for clarity.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–264, which in directing the general amendment of par. (1) inserted an additional subsec. (a) designation and heading identical to the existing subsec. heading as well as restating the text of par. (1), was executed by restating the text only to reflect the probable intent of Congress. Prior to amendment, par. (1) read as follows: ''To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration shall prescribe—

''(A) standards to measure aircraft noise and sonic boom; and

''(B) regulations to control and abate aircraft noise and sonic boom.''

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 44716. Collision avoidance systems

(a) DEVELOPMENT AND CERTIFICATION.—The Administrator of the Federal Aviation Administration shall—

(1) complete the development of the collision avoidance system known as TCAS–II so that TCAS–II can operate under visual and instrument flight rules and can be upgraded to the performance standards applicable to the collision avoidance system known as TCAS–III;

(2) develop and carry out a schedule for developing and certifying TCAS–II that will result in certification not later than June 30, 1989; and

(3) submit to Congress monthly reports on the progress being made in developing and certifying TCAS–II.

(b) INSTALLATION AND OPERATION.—The Administrator shall require by regulation that, not later than 30 months after the date certification is made under subsection (a)(2) of this section, TCAS–II be installed and operated on each civil aircraft that has a maximum passenger capacity of at least 31 seats and is used to provide air transportation of passengers, including intrastate air transportation of passengers. The Administrator may extend the deadline in this subsection for not more than 2 years if the Administrator finds the extension is necessary to promote—

(1) a safe and orderly transition to the operation of a fleet of civil aircraft described in this subsection equipped with TCAS–II; or

(2) other safety objectives.

(c) OPERATIONAL EVALUATION.—Not later than December 30, 1990, the Administrator shall establish a one-year program to collect and assess safety and operational information from civil aircraft equipped with TCAS–II for the operational evaluation of TCAS–II. The Administrator shall encourage foreign air carriers that operate civil aircraft equipped with TCAS–II to participate in the program.

(d) AMENDING SCHEDULE FOR WINDSHEAR EQUIPMENT.—The Administrator shall consider the feasibility and desirability of amending the schedule for installing airborne low-altitude windshear equipment to make the schedule compatible with the schedule for installing TCAS–II.

(e) DEADLINE FOR DEVELOPMENT AND CERTIFICATION.—(1) The Administrator shall complete developing and certifying TCAS–III as soon as possible.

(2) Necessary amounts may be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out this subsection.

(f) INSTALLING AND USING TRANSPONDERS.—The Administrator shall prescribe regulations requiring that, not later than December 30, 1990, operating transponders with automatic altitude reporting capability be installed and used for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft. The Administrator may provide for access to that airspace (except terminal control areas and airport radar service areas) by nonequipped aircraft if the Administrator finds the access will not interfere with the normal traffic flow.

(g) CARGO COLLISION AVOIDANCE SYSTEMS.—

(1) IN GENERAL.—The Administrator shall require by regulation that, no later than December 31, 2002, collision avoidance equipment be installed on each cargo aircraft with a maximum certificated takeoff weight in excess of 15,000 kilograms.

(2) EXTENSION OF DEADLINE.—The Administrator may extend the deadline established by paragraph (1) by not more than 2 years if the Administrator finds that the extension is needed to promote—

(A) a safe and orderly transition to the operation of a fleet of cargo aircraft equipped with collision avoidance equipment; or

(B) other safety or public interest objectives.

(3) COLLISION AVOIDANCE EQUIPMENT DEFINED.—In this subsection, the term ''collision avoidance equipment'' means equipment that provides protection from mid-air collisions using technology that provides—

(A) cockpit-based collision detection and conflict resolution guidance, including display of traffic; and

(B) a margin of safety of at least the same level as provided by the collision avoidance system known as TCAS–II.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1198; Pub. L. 106–181, title V, § 502, Apr. 5, 2000, 114 Stat. 132.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44716(a)	49 App.:1421(f)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(f); added Dec. 30, 1987, Pub. L. 100–223, § 203(b), 101 Stat. 1518; Dec. 15, 1989, Pub. L. 101–236, § 2, 103 Stat. 2060.
44716(b)	49 App.:1421(f)(2), (4).	
44716(c)	49 App.:1421(f)(3).	
44716(d)	49 App.:1421(f)(5).	
44716(e)	49 App.:1421 (note).	Dec. 30, 1987, Pub. L. 100–223, § 203(d), 101 Stat. 1519.
44716(f)	49 App.:1421(f)(6).	

In subsection (c), the words ''In conducting the program'' are omitted as surplus.

In subsection (e)(1), the word ''research'' is omitted as included in ''developing''.

In subsection (e)(2), the words ''established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502)'' are added for consistency in the revised title.

In subsection (f), the words ''Not later than 6 months after December 30, 1987, the Administrator shall promulgate a final rule'' and ''Such final rule'' are omitted as executed.

AMENDMENTS

2000—Subsec. (g). Pub. L. 106–181 added subsec. (g).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (a)(3) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 8th item on page 138 of House Document No. 103–7.

§ 44717. Aging aircraft

(a) INSPECTIONS AND REVIEWS.—The Administrator of the Federal Aviation Administration shall prescribe regulations that ensure the continuing airworthiness of aging aircraft. The regulations prescribed under subsection (a) of this section—

(1) at least shall require the Administrator to make inspections, and review the maintenance and other records, of each aircraft an air carrier uses to provide air transportation that the Administrator decides may be necessary to enable the Administrator to decide whether the aircraft is in safe condition and maintained properly for operation in air transportation;

(2) at least shall require an air carrier to demonstrate to the Administrator, as part of the inspection, that maintenance of the aircraft's age-sensitive parts and components has been adequate and timely enough to ensure the highest degree of safety;

(3) shall require the air carrier to make available to the Administrator the aircraft and any records about the aircraft that the Administrator requires to carry out a review; and

(4) shall establish procedures to be followed in carrying out an inspection.

(b) WHEN AND HOW INSPECTIONS AND REVIEWS SHALL BE CARRIED OUT.—(1) Inspections and reviews required under subsection (a)(1) of this section shall be carried out as part of each heavy maintenance check of the aircraft conducted after the 14th year in which the aircraft has been in service.

(2) Inspections under subsection (a)(1) of this section shall be carried out as provided under section 44701(a)(2)(B) and (C) of this title.

(c) AIRCRAFT MAINTENANCE SAFETY PROGRAMS.—The Administrator shall establish—

(1) a program to verify that air carriers are maintaining their aircraft according to maintenance programs approved by the Administrator;

(2) a program—

(A) to provide inspectors and engineers of the Administration with training necessary to conduct auditing inspections of aircraft operated by air carriers for corrosion and metal fatigue; and

(B) to enhance participation of those inspectors and engineers in those inspections; and

(3) a program to ensure that air carriers demonstrate to the Administrator their commitment and technical competence to ensure the airworthiness of aircraft that the carriers operate.

(d) FOREIGN AIR TRANSPORTATION.—(1) The Administrator shall take all possible steps to encourage governments of foreign countries and relevant international organizations to develop standards and requirements for inspections and reviews that—

(A) will ensure the continuing airworthiness of aging aircraft used by foreign air carriers to provide foreign air transportation to and from the United States; and

(B) will provide passengers of those foreign air carriers with the same level of safety that will be provided passengers of air carriers by carrying out this section.

(2) Not later than September 30, 1994, the Administrator shall report to Congress on carrying out this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1199.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44717(a)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, §§402(a), (b)(1), (c)–(e), 405, 105 Stat. 951, 952.
44717(b)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, §402(b)(2), (3), 105 Stat. 951.
44717(c)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, §403, 105 Stat. 952.
44717(d)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, §404, 105 Stat. 952.

In subsections (a) and (c), before clause (1), the words ''Not later than 180 days after the date of the enactment of this title'' are omitted as obsolete.

In subsection (a), before clause (1), the text of section 405 of the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102–143, 105 Stat. 952) is omitted as surplus because the complete name of the Administrator of the Federal Aviation Administration is used the first time the term appears in a section. The word ''regulations'' is substituted for ''rule'' because the terms are synonymous. In clauses (2)–(4), the words ''required by the rule'' are omitted as surplus. In clause (2), the words ''structure, skin, and other'' are omitted as surplus. In clause (3), the words ''inspection, maintenance, and other'' are omitted as surplus.

In subsection (c)(1), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' for consistency in the revised title.

In subsection (d)(1), before clause (A), the words ''governments of foreign countries'' are substituted for ''foreign governments'' for consistency in the revised title and with other titles of the United States Code.

§ 44718. Structures interfering with air commerce

(a) NOTICE.—By regulation or by order when necessary, the Secretary of Transportation shall require a person to give adequate public notice, in the form and way the Secretary prescribes, of the construction, alteration, establishment, or expansion, or the proposed construction, alteration, establishment, or expansion, of a structure or sanitary landfill when the notice will promote—

(1) safety in air commerce; and

(2) the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

(b) STUDIES.—(1) Under regulations prescribed by the Secretary, if the Secretary decides that constructing or altering a structure may result in an obstruction of the navigable airspace or an interference with air navigation facilities and equipment or the navigable airspace, the Secretary shall conduct an aeronautical study to decide the extent of any adverse impact on the safe and efficient use of the airspace, facilities, or equipment. In conducting the study, the Secretary shall consider factors relevant to the efficient and effective use of the navigable airspace, including—

(A) the impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(B) the impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(C) the impact on existing public-use airports and aeronautical facilities;

(D) the impact on planned public-use airports and aeronautical facilities; and

(E) the cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures.

(2) On completing the study, the Secretary shall issue a report disclosing completely the extent of the adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from constructing or altering the structure.

(c) BROADCAST APPLICATIONS AND TOWER STUDIES.—In carrying out laws related to a broadcast application and conducting an aeronautical study related to broadcast towers, the Administrator of the Federal Aviation Administration and the Federal Communications Commission shall take action necessary to coordinate efficiently—

(1) the receipt and consideration of, and action on, the application; and

(2) the completion of any associated aeronautical study.

(d) LIMITATION ON CONSTRUCTION OF LANDFILLS.—

(1) IN GENERAL.—No person shall construct or establish a municipal solid waste landfill (as defined in section 258.2 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this subsection) that receives putrescible waste (as defined in section 257.3–8 of such title) within 6 miles of a public airport that has received grants under chapter 471 and is primarily served by general aviation aircraft and regularly scheduled flights of aircraft designed for 60 passengers or less unless the State aviation agency of the State in which the airport is located requests that the Administrator of the Federal Aviation Administration exempt the landfill from the application of this subsection and the Administrator determines that such exemption would have no adverse impact on aviation safety.

(2) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply in the State of Alaska and

shall not apply to the construction, establishment, expansion, or modification of, or to any other activity undertaken with respect to, a municipal solid waste landfill if the construction or establishment of the landfill was commenced on or before the date of the enactment of this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1200; Pub. L. 104–264, title XII, § 1220(a), Oct. 9, 1996, 110 Stat. 3286; Pub. L. 106–181, title V, § 503(b), Apr. 5, 2000, 114 Stat. 133.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44718(a)	49 App.:1501(a).	Aug. 23, 1958, Pub. L. 85–726, § 1101, 72 Stat. 797; restated Dec. 30, 1987, Pub. L. 100–223, § 206 (less (b)), 101 Stat. 1521; Oct. 31, 1992, Pub. L. 102–581, § 203(a), 106 Stat. 4890.
44718(b)	49 App.:1501(b).	
44718(c)	49 App.:1501(c).	

In subsection (a), before clause (1), the words ''(hereinafter in this section referred to as the 'Secretary')'' and ''where necessary'' are omitted as surplus.

In subsection (b)(1), before clause (A), the word ''thoroughly'' is omitted as surplus.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (d), probably means the date of enactment of Pub. L. 106–181, which amended subsec. (d) generally, and which was approved Apr. 5, 2000.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–181 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: ''For the purposes of enhancing aviation safety, in a case in which 2 landfills have been proposed to be constructed or established within 6 miles of a commercial service airport with fewer than 50,000 enplanements per year, no person shall construct or establish either landfill if an official of the Federal Aviation Administration has stated in writing within the 3-year period ending on the date of the enactment of this subsection that 1 of the landfills would be incompatible with aircraft operations at the airport, unless the landfill is already active on such date of enactment or the airport operator agrees to the construction or establishment of the landfill.''

1996—Subsec. (d). Pub. L. 104–264 added subsec. (d).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

LANDFILLS INTERFERING WITH AIR COMMERCE

Pub. L. 106–181, title V, § 503(a), Apr. 5, 2000, 114 Stat. 133, provided that: ''Congress finds that—

''(1) collisions between aircraft and birds have resulted in fatal accidents;

''(2) bird strikes pose a special danger to smaller aircraft;

''(3) landfills near airports pose a potential hazard to aircraft operating there because they attract birds;

''(4) even if the landfill is not located in the approach path of the airport's runway, it still poses a hazard because of the birds' ability to fly away from the landfill and into the path of oncoming planes;

''(5) while certain mileage limits have the potential to be arbitrary, keeping landfills at least 6 miles away from an airport, especially an airport served by small planes, is an appropriate minimum requirement for aviation safety; and

''(6) closure of existing landfills (due to concerns about aviation safety) should be avoided because of the likely disruption to those who use and depend on such landfills.''

§ 44719. Standards for navigational aids

The Secretary of Transportation shall prescribe regulations on standards for installing navigational aids, including airport control towers. For each type of facility, the regulations shall consider at a minimum traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1201.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44719	49 App.:1348 (note).	Dec. 30, 1987, Pub. L. 100–223, § 308, 101 Stat. 1526.

The words ''Not later than December 31, 1988'' are omitted as obsolete.

§ 44720. Meteorological services

(a) RECOMMENDATIONS.—The Administrator of the Federal Aviation Administration shall make recommendations to the Secretary of Commerce on providing meteorological services necessary for the safe and efficient movement of aircraft in air commerce. In providing the services, the Secretary shall cooperate with the Administrator and give complete consideration to those recommendations.

(b) PROMOTING SAFETY AND EFFICIENCY.—To promote safety and efficiency in air navigation to the highest possible degree, the Secretary shall—

(1) observe, measure, investigate, and study atmospheric phenomena, and maintain meteorological stations and offices, that are necessary or best suited for finding out in advance information about probable weather conditions;

(2) provide reports to the Administrator to persons engaged in civil aeronautics that are designated by the Administrator and to other persons designated by the Secretary in a way and with a frequency that best will result in safety in, and facilitating, air navigation;

(3) cooperate with persons engaged in air commerce in meteorological services, maintain reciprocal arrangements with those persons in carrying out this clause, and collect and distribute weather reports available from aircraft in flight;

(4) maintain and coordinate international exchanges of meteorological information required for the safety and efficiency of air navigation;

(5) in cooperation with other departments, agencies, and instrumentalities of the United States Government, meteorological services of foreign countries, and persons engaged in air commerce, participate in developing an international basic meteorological reporting network, including the establishment, operation, and maintenance of reporting stations on the high seas, in polar regions, and in foreign countries;

(6) coordinate meteorological requirements in the United States to maintain standard observations, to promote efficient use of facilities, and to avoid duplication of services unless the duplication tends to promote the safety and efficiency of air navigation; and

(7) promote and develop meteorological science and foster and support research projects in meteorology through the use of private and governmental research facilities and provide for publishing the results of the projects unless publication would not be in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1201.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44720(a)	49 App.:1351.	Aug. 23, 1958, Pub. L. 85–726, §§ 310, 803, 72 Stat. 751, 783.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44720(b)	49 App.:1463. 49 App.:1655(c)(1).	

In subsection (b), the title ''Secretary'' [of Commerce] is substituted for ''Chief of the Weather Bureau'' in section 803 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 783) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318). Before clause (1), the words ''In order'' and ''in addition to any other functions or duties pertaining to weather information for other purposes'' are omitted as surplus. In clause (2), the words ''forecasts, warnings, and advices'' are omitted as being included in ''reports''. In clause (3), the words ''or employees thereof'' and ''establish and'' are omitted as surplus. The words ''with those persons'' are added for clarity. In clause (5), the words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''governmental agencies of the United States'' for consistency in the revised title and with other titles of the United States Code.

AUTOMATED SURFACE OBSERVATION SYSTEM STATIONS

Pub. L. 106–181, title VII, § 728, Apr. 5, 2000, 114 Stat. 168, provided that: ''The Administrator [of the Federal Aviation Administration] shall not terminate human weather observers for Automated Surface Observation System stations until—

''(1) the Administrator determines that the system provides consistent reporting of changing meteorological conditions and notifies Congress in writing of that determination; and

''(2) 60 days have passed since the report was transmitted to Congress.''

§ 44721. Aeronautical charts and related products and services

(a) PUBLICATION.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may arrange for the publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation, using the facilities and assistance of departments, agencies, and instrumentalities of the United States Government as far as practicable.

(2) NAVIGATION ROUTES.—In carrying out paragraph (1), the Administrator shall update and arrange for the publication of clearly defined routes for navigating through a complex terminal airspace area and to and from an airport located in such an area, if the Administrator decides that publication of the routes would promote safety in air navigation. The routes shall be developed in consultation with pilots and other users of affected airports and shall be for the optional use of pilots operating under visual flight rules.

(b) INDEMNIFICATION.—The Government shall make an agreement to indemnify any person that publishes a map or chart for use in aeronautics from any part of a claim arising out of the depiction by the person on the map or chart of a defective or deficient flight procedure or airway if the flight procedure or airway was—

(1) prescribed by the Administrator;

(2) depicted accurately on the map or chart; and

(3) not obviously defective or deficient.

(c) AUTHORITY OF OFFICE OF AERONAUTICAL CHARTING AND CARTOGRAPHY.—Effective October 1, 2000, the Administrator is vested with and shall exercise the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography to provide aeronautical charts and related products and services for the safe and efficient navigation of air commerce, under the following authorities:

(1) Sections 1 through 9 of the Act entitled ''An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes'', approved August 6, 1947,[1] (33 U.S.C. 883a–883h).

(2) Section 6082 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (33 U.S.C. 883j).

(d) AUTHORITY.—In order that full public benefit may be derived from the dissemination of data resulting from activities under this section and of related data from other sources, the Administrator may—

(1) develop, process, disseminate and publish digital and analog data, information, compilations, and reports;

(2) compile, print, and disseminate aeronautical charts and related products and services of the United States and its territories and possessions;

(3) compile, print, and disseminate aeronautical charts and related products and services covering international airspace as are required primarily by United States civil aviation; and

(4) compile, print, and disseminate nonaeronautical navigational, transportation or public-safety-related products and services when in the best interests of the Government.

[1] So in original. The comma probably should not appear.

(e) CONTRACTS, COOPERATIVE AGREEMENTS, GRANTS, AND OTHER AGREEMENTS.—

(1) CONTRACTS.—The Administrator is authorized to contract with qualified organizations for the performance of any part of the authorized functions of the Office of Aeronautical Charting and Cartography when the Administrator deems such procedure to be in the public interest and will not compromise public safety.

(2) COOPERATIVE AGREEMENTS, GRANTS, AND OTHER AGREEMENTS.—The Administrator is authorized to enter into cooperative agreements, grants, reimbursable agreements, memoranda of understanding and other agreements, with a State, subdivision of a State, Federal agency, public or private organization, or individual, to carry out the purposes of this section.

(f) SPECIAL SERVICES AND PRODUCTS.—

(1) IN GENERAL.—The Administrator is authorized, at the request of a State, subdivision of a State, Federal agency, public or private organization, or individual, to conduct special services, including making special studies, or developing special publications or products on matters relating to navigation, transportation, or public safety.

(2) FEES.—The Administrator shall assess a fee for any special service provided under paragraph (1). A fee shall be not more than the actual or estimated full cost of the service. A fee may be reduced or waived for research organizations, educational organizations, or non-profit organizations, when the Administrator determines that reduction or waiver of the fee is in the best interest of the Government by furthering public safety.

(g) SALE AND DISSEMINATION OF AERONAUTICAL PRODUCTS.—

(1) IN GENERAL.—Aeronautical products created or maintained under the authority of this section shall be sold at prices established annually by the Administrator consistent with the following:

(A) MAXIMUM PRICE.—Subject to subparagraph (B), the price of an aeronautical product sold to the public shall be not more than necessary to recover all costs attributable to: (i) data base management and processing; (ii) compilation; (iii) printing or other types of reproduction; and (iv) dissemination of the product.

(B) ADJUSTMENT OF PRICE.—The Administrator shall adjust the price of an aeronautical product and service sold to the public as necessary to avoid any adverse impact on aviation safety attributable to the price specified under this paragraph.

(C) COSTS ATTRIBUTABLE TO ACQUISITION OF AERONAUTICAL DATA.—A price established under this paragraph may not include costs attributable to the acquisition of aeronautical data.

(D) CONTINUATION OF PRICES.—The price of any product created under subsection (d) may correspond to the price of a comparable product produced by a department of the United States Government as that price was in effect on September 30, 2000, and may remain in effect until modified by regulation under section 9701 of title 31, United States Code.

(2) PUBLICATION OF PRICES.—The Administrator shall publish annually the prices at which aeronautical products are sold to the public.

(3) DISTRIBUTION.—The Administrator may distribute aeronautical products and provide aeronautical services—

(A) without charge to each foreign government or international organization with which the Administrator or a Federal department or agency has an agreement for exchange of these products or services without cost;

(B) at prices the Administrator establishes, to the departments and officers of the United States requiring them for official use; and

(C) at reduced or no charge where, in the judgment of the Administrator, furnishing the aeronautical product or service to a recipient is a reasonable exchange for voluntary contribution of information by the recipient to the activities under this section.

(4) FEES.—The fees provided for in this subsection are for the purpose of reimbursing the Government for the costs of creating, printing and disseminating aeronautical products and services under this section. The collection of fees authorized by this section does not alter or expand any duty or liability of the Government under existing law for the performance of functions for which fees are collected, nor does the collection of fees constitute an express or implied undertaking by the Government to perform any activity in a certain manner.

(5) CREDITING AMOUNTS RECEIVED.—Notwithstanding any other provision of law, amounts received for the sale of products created and services performed under this section shall be fully credited to the account of the Federal Aviation Administration that funded the provision of the products or services and shall remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1202; Pub. L. 106–181, title VI, § 603(a), Apr. 5, 2000, 114 Stat. 150; Pub. L. 106–424, § 17(a), Nov. 1, 2000, 114 Stat. 1888.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44721(a)(1) ..	49 App.:1348(b) (1st sentence cl. (3)).	Aug. 23, 1958, Pub. L. 85–726, § 307(b) (1st sentence cl. (3)), 72 Stat. 750.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44721(a)(2) ..	49 App.:1348(b) (3d, last sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 749, § 307(b) (3d, last sentences); added Oct. 31, 1992, Pub. L. 102–581, § 125, 106 Stat. 4885.
44721(b)	49 App.:1519.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1118; added Dec. 19, 1985, Pub. L. 99–190, § 328(a), 99 Stat. 1289.

In subsection (a)(1), the word ''Administrator'' in section 307(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750) is retained on authority of

49:106(g). The words ''within the limits of available appropriations made by the Congress'' are omitted as surplus. The words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''existing agencies of the Government'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), the words ''Notwithstanding the provisions of section 1341 of title 31 or any other provision of law'' are omitted as surplus.

REFERENCES IN TEXT

Sections 1 through 9 of the Act entitled ''An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes'', approved August 6, 1947, referred to in subsec. (c)(1), are classified to sections 883a to 883i of Title 33, Navigation and Navigable Waters. Section 883g of Title 33 was repealed by Pub. L. 88–611, § 4(a)(2), Oct. 2, 1964, 78 Stat. 991.

AMENDMENTS

2000—Pub. L. 106–181 amended section catchline and text generally. Prior to amendment, text read as follows:

''(a) PUBLICATION.—(1) The Administrator of the Federal Aviation Administration may arrange for the publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation, using the facilities and assistance of departments, agencies, and instrumentalities of the United States Government as far as practicable.

''(2) In carrying out paragraph (1) of this subsection, the Administrator shall update and arrange for the publication of clearly defined routes for navigating through a complex terminal airspace area and to and from an airport located in such an area, if the Administrator decides that publication of the routes would promote safety in air navigation. The routes shall be developed in consultation with pilots and other users of affected airports and shall be for the optional use of pilots operating under visual flight rules.

''(b) INDEMNIFICATION.—The Government shall make an agreement to indemnify any person that publishes a map or chart for use in aeronautics from any part of a claim arising out of the depiction by the person on the map or chart of a defective or deficient flight procedure or airway if the flight procedure or airway was—

''(1) prescribed by the Administrator;

''(2) depicted accurately on the map or chart; and

''(3) not obviously defective or deficient.''

Subsec. (c)(3), (4). Pub. L. 106–424, § 17(a)(1), struck out pars. (3) and (4) which read as follows:

''(3) Section 1307 of title 44, United States Code.

''(4) The provision of title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 under the heading 'National Oceanic and Atmospheric Administration' relating to aeronautical charts (44 U.S.C. 1307 note).''

Subsec. (g)(1)(D). Pub. L. 106–424, § 17(a)(2), added subpar. (D).

Subsec. (g)(5). Pub. L. 106–424, § 17(a)(3), added par. (5).

EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106–424, § 17(b), Nov. 1, 2000, 114 Stat. 1889, provided that: ''The amendments made by subsection (a) [amending this section] take effect on October 1, 2000.''

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

SAVINGS PROVISION

Pub. L. 106–181, title VI, § 604, Apr. 5, 2000, 114 Stat. 152, provided that:

''(a) CONTINUED EFFECTIVENESS OF DIRECTIVES.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, privileges, and financial assistance that—

''(1) have been issued, made, granted, or allowed to become effective by the President of the United States, the Secretary of Commerce, the Administrator of the National Oceanic and Atmospheric Administration, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this title [amending this section, sections 883b and 883e of Title 33, Navigation and Navigable Waters, and section 1307 of Title 44, Public Printing and Documents, and enacting provisions set out as notes under this section]; and

''(2) are in effect on the date of transfer,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President of the United States, the Administrator of the Federal Aviation Administration, a court of competent jurisdiction, or by operation of law.

''(b) CONTINUED EFFECTIVENESS OF PENDING ACTIONS.—

''(1) IN GENERAL.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the date of transfer before the Department of Commerce or the National Oceanic and Atmospheric Administration, or any officer of such Department or Administration, with respect to functions transferred by this title, but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued in accord with transition guidelines promulgated by the Administrator of the Federal Aviation Administration under the authority of this section. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Administrator of the Federal Aviation Administration, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

''(2) TRANSITION GUIDELINES.—The Secretary of Commerce, the Administrator of the National Oceanic and Atmospheric Administration, and the Administrator of the Federal Aviation Administration are authorized to issue transition guidelines providing for the orderly transfer of proceedings and otherwise to accomplish the orderly transfer of functions, personnel and property under this title.

''(c) CONTINUED EFFECTIVENESS OF JUDICIAL ACTIONS.—No cause of action by or against the Department of Commerce or the National Oceanic and Atmospheric Administration with respect to functions transferred by this title, or by or against any officer thereof in the official's capacity, shall abate by reason of the enactment of this title. Causes of action and actions with respect to a function or office transferred by this title, or other proceedings may be asserted by or against the United States or an official of the Federal Aviation Administration, as may be appropriate, and, in an action pending when this title takes effect, the court may at any time, on its own motion or that of any party, enter an order that will give effect to the provisions of this subsection.

''(d) SUBSTITUTION OR ADDITION OF PARTIES TO JUDICIAL ACTIONS.—If, on the date of transfer, the Department of Commerce or the National Oceanic and Atmospheric Administration, or any officer of the Department or Administration in an official capacity, is a party to an action, and under this title any function relating to the action of the Department, Administration, or officer is transferred to the Federal Aviation Administration, then such action shall be continued with the Administrator of the Federal Aviation Administration substituted or added as a party.

''(e) CONTINUED JURISDICTION OVER ACTIONS TRANSFERRED.—Orders and actions of the Administrator of

the Federal Aviation Administration in the exercise of functions transferred by this title shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Department of Commerce or the National Oceanic and Atmospheric Administration, or any office or officer of such Department or Administration, in the exercise of such functions immediately preceding their transfer.

''(f) LIABILITIES AND OBLIGATIONS.—The Administrator of the Federal Aviation Administration shall assume all liabilities and obligations (tangible and incorporeal, present and executory) associated with the functions transferred under this title on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, financial assistance, and litigation relating to such obligations, regardless whether judgment has been entered, damages awarded, or appeal taken.''

TRANSFER OF FUNCTIONS

Pub. L. 106–181, title VI, § 601, Apr. 5, 2000, 114 Stat. 149, provided that: ''Effective October 1, 2000, there are transferred to the Federal Aviation Administration and vested in the Administrator the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography and are set forth in section 44721 of title 49, United States Code.''

TRANSFER OF OFFICE, PERSONNEL, AND FUNDS

Pub. L. 106–181, title VI, § 602, Apr. 5, 2000, 114 Stat. 149, provided that:

''(a) TRANSFER OF OFFICE.—Effective October 1, 2000, the Office of Aeronautical Charting and Cartography of the National Oceanic and Atmospheric Administration, Department of Commerce, is transferred to the Federal Aviation Administration.

''(b) OTHER TRANSFERS.—Effective October 1, 2000, the personnel employed in connection with, and the assets, liabilities, contracts, property, equipment, facilities, records, and unexpended balance of appropriations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the function and offices, or portions of offices, transferred by this title [amending this section, sections 883b and 883e of Title 33, Navigation and Navigable Waters, and section 1307 of Title 44, Public Printing and Documents, and enacting provisions set out as notes under this section], including all Senior Executive Service positions, subject to section 1531 of title 31, United States Code, are transferred to the Administrator of the Federal Aviation Administration for appropriate allocation. Personnel employed in connection with functions transferred by this title transfer under any applicable law and regulation relating to transfer of functions. Unexpended funds transferred under this section shall be used only for the purposes for which the funds were originally authorized and appropriated, except that funds may be used for expenses associated with the transfer authorized by this title.''

PROCUREMENT OF PRIVATE ENTERPRISE MAPPING, CHARTING, AND GEOGRAPHIC INFORMATION SYSTEMS

Pub. L. 106–181, title VI, § 607, Apr. 5, 2000, 114 Stat. 154, provided that: ''The Administrator [of the Federal Aviation Administration] shall consider procuring mapping, charting, and geographic information systems necessary to carry out the duties of the Administrator under title 49, United States Code, from private enterprises, if the Administrator determines that such procurement furthers the mission of the Federal Aviation Administration and is cost effective.''

§ 44722. Aircraft operations in winter conditions

The Administrator of the Federal Aviation Administration shall prescribe regulations requiring procedures to improve safety of aircraft operations during winter conditions. In deciding on the procedures to be required, the Administrator shall consider at least aircraft and air traffic control modifications, the availability of different types of deicing fluids (considering their efficacy and environmental limitations), the types of deicing equipment available, and the feasibility and desirability of establishing timeframes within which deicing must occur under certain types of inclement weather.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1202.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44722	49:1421 (note).	Oct. 31, 1992, Pub. L. 102–581, § 124, 106 Stat. 4885.

The words ''Before November 1, 1992'' are omitted as obsolete. The words ''prescribe regulations requiring'' are substituted for ''require, by regulation'', and the words ''other factors the Administrator considers appropriate'' are substituted for ''among other things'', for consistency in the revised title.

§ 44723. Annual report

Not later than January 1 of each year, the Secretary of Transportation shall submit to Congress a comprehensive report on the safety enforcement activities of the Federal Aviation Administration during the fiscal year ending the prior September 30th. The report shall include—

(1) a comparison of end-of-year staffing levels by operations, maintenance, and avionics inspector categories to staffing goals and a statement on how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance, and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs by field location and, for any field location completing less than 80 percent of its planned number of inspections, an explanation of why annual work program plans were not met;

(6) a statement of the adequacy of Administration internal management controls available to ensure that field managers comply with Administration policies and procedures, including those on inspector priorities, district office coordination, minimum inspection standards, and inspection followup;

(7) the status of efforts made by the Administration to update inspector guidance documents and regulations to include technological, management, and structural changes taking place in the aviation industry, including a listing of the backlog of all proposed regulatory amendments;

(8) a list of the specific operational measures of effectiveness used to evaluate—

(A) the progress in meeting program objectives;

(B) the quality of program delivery; and

(C) the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the 2 prior fiscal years, including the total initial and final penalties imposed, the total number of dollars collected, the range of dollar amounts collected, the average case processing time, and the range of case processing time;

(10) a schedule showing the number of enforcement actions taken (except civil penalties) during the 2 prior fiscal years, including the total number of violations cited, and the number of cited violation cases closed by certificate suspensions, certificate revocations, warnings, and no action taken; and

(11) schedules showing the safety record of the aviation industry during the fiscal year for air carriers and general aviation, including—

(A) the number of inspections performed when deficiencies were identified compared with inspections when no deficiencies were found;

(B) the frequency of safety deficiencies for each air carrier; and

(C) an analysis based on data of the general status of air carrier and general aviation compliance with aviation regulations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1202.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44723	49:308 (note).	Dec. 22, 1987, Pub. L. 100–202, § 317(a), 101 Stat. 1329–380. Sept. 30, 1988, Pub. L. 100–457, § 317(a), 102 Stat. 2148.

In clauses (4) and (7), the word ''regulations'' is substituted for ''Federal regulations'' for consistency in the revised title.

In clause (5), the words ''by field location'' are substituted for ''disaggregated to the field locations'' for clarity.

In clause (8), before subclause (A), the words '' 'best proxies' standing between the ultimate goal of accident prevention and ongoing program activities'' are omitted as surplus.

In clause (9), the words ''penalties imposed'' are substituted for ''assessments'' for consistency in the revised title and with other titles of the United States Code.

In clause (11)(C), the words ''aviation regulations'' are substituted for ''Federal Aviation Regulations'' for consistency in the revised title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 22nd item on page 132 and the 10th item on page 135 of House Document No. 103–7.

§ 44724. Manipulation of flight controls

(a) PROHIBITION.—No pilot in command of an aircraft may allow an individual who does not hold—

(1) a valid private pilots certificate issued by the Administrator of the Federal Aviation Administration under part 61 of title 14, Code of Federal Regulations; and

(2) the appropriate medical certificate issued by the Administrator under part 67 of such title,

to manipulate the controls of an aircraft if the pilot knows or should have known that the individual is attempting to set a record or engage in an aeronautical competition or aeronautical feat, as defined by the Administrator.

(b) REVOCATION OF AIRMEN CERTIFICATES.—The Administrator shall issue an order revoking a certificate issued to an airman under section 44703 of this title if the Administrator finds that while acting as a pilot in command of an aircraft, the airman has permitted another individual to manipulate the controls of the aircraft in violation of subsection (a).

(c) PILOT IN COMMAND DEFINED.—In this section, the term ''pilot in command'' has the meaning given such term by section 1.1 of title 14, Code of Federal Regulations.

(Added Pub. L. 104–264, title VI, § 602(a)(1), Oct. 9, 1996, 110 Stat. 3263.)

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§ 44725. Life-limited aircraft parts

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to require the safe disposition of life-limited parts removed from an aircraft. The rulemaking proceeding shall ensure that the disposition deter installation on an aircraft of a life-limited part that has reached or exceeded its life limits.

(b) SAFE DISPOSITION.—For the purposes of this section, safe disposition includes any of the following methods:

(1) The part may be segregated under circumstances that preclude its installation on an aircraft.

(2) The part may be permanently marked to indicate its used life status.

(3) The part may be destroyed in any manner calculated to prevent reinstallation in an aircraft.

(4) The part may be marked, if practicable, to include the recordation of hours, cycles, or other airworthiness information. If the parts are marked with cycles or hours of usage, that information must be updated every time the part is removed from service or when the part is retired from service.

(5) Any other method approved by the Administrator.

(c) DEADLINES.—In conducting the rulemaking proceeding under subsection (a), the Administrator shall—

(1) not later than 180 days after the date of the enactment of this section, issue a notice of proposed rulemaking; and

(2) not later than 180 days after the close of the comment period on the proposed rule, issue a final rule.

(d) PRIOR-REMOVED LIFE-LIMITED PARTS.—No rule issued under subsection (a) shall require the marking of parts removed from aircraft before the effective date of the rules issued under subsection (a), nor shall any such rule forbid the installation of an otherwise airworthy life-limited part.

(Added Pub. L. 106–181, title V, § 504(a), Apr. 5, 2000, 114 Stat. 134.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 44726. Denial and revocation of certificate for counterfeit parts violations

(a) DENIAL OF CERTIFICATE.—

(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and subsection (e)(2), the Administrator of the Federal Aviation Administration may not issue a certificate under this chapter to any person—

(A) convicted in a court of law of a violation of a law of the United States relating to the installation, production, repair, or sale of a counterfeit or fraudulently-represented aviation part or material;

(B) whose certificate is revoked under subsection (b); or

(C) subject to a controlling or ownership interest of an individual described in subparagraph (A) or (B).

(2) EXCEPTION.—Notwithstanding paragraph (1), the Administrator may issue a certificate under this chapter to a person described in paragraph (1) if issuance of the certificate will facilitate law enforcement efforts.

(b) REVOCATION OF CERTIFICATE.—

(1) IN GENERAL.—Except as provided in subsections (f) and (g), the Administrator shall issue an order revoking a certificate issued under this chapter if the Administrator finds that the holder of the certificate or an individual who has a controlling or ownership interest in the holder—

(A) was convicted in a court of law of a violation of a law of the United States relating to the installation, production, repair, or sale of a counterfeit or fraudulently-represented aviation part or material; or

(B) knowingly, and with the intent to defraud, carried out or facilitated an activity punishable under a law described in paragraph (1)(A).

(2) NO AUTHORITY TO REVIEW VIOLATION.—In carrying out paragraph (1), the Administrator may not review whether a person violated a law described in paragraph (1)(A).

(c) NOTICE REQUIREMENT.—Before the Administrator revokes a certificate under subsection (b), the Administrator shall—

(1) advise the holder of the certificate of the reason for the revocation; and

(2) provide the holder of the certificate an opportunity to be heard on why the certificate should not be revoked.

(d) APPEAL.—The provisions of section 44710(d) apply to the appeal of a revocation order under subsection (b). For the purpose of applying that section to the appeal, ''person'' shall be substituted for ''individual'' each place it appears.

(e) ACQUITTAL OR REVERSAL.—

(1) IN GENERAL.—The Administrator may not revoke, and the National Transportation Safety Board may not affirm a revocation of, a certificate under subsection (b)(1)(B) if the holder of the certificate or the individual referred to in subsection (b)(1) is acquitted of all charges directly related to the violation.

(2) REISSUANCE.—The Administrator may reissue a certificate revoked under subsection (b) of this section to the former holder if—

(A) the former holder otherwise satisfies the requirements of this chapter for the certificate; and

(B)(i) the former holder or the individual referred to in subsection (b)(1), is acquitted of all charges related to the violation on which the revocation was based; or

(ii) the conviction of the former holder or such individual of the violation on which the revocation was based is reversed.

(f) WAIVER.—The Administrator may waive revocation of a certificate under subsection (b) if—

(1) a law enforcement official of the United States Government requests a waiver; and

(2) the waiver will facilitate law enforcement efforts.

(g) AMENDMENT OF CERTIFICATE.—If the holder of a certificate issued under this chapter is other than an individual and the Administrator finds that—

(1) an individual who had a controlling or ownership interest in the holder committed a violation of a law for the violation of which a certificate may be revoked under this section or knowingly, and with intent to defraud, carried out or facilitated an activity punishable under such a law; and

(2) the holder satisfies the requirements for the certificate without regard to that individual,

then the Administrator may amend the certificate to impose a limitation that the certificate will not be valid if that individual has a controlling or ownership interest in the holder. A decision by the Administrator under this subsection is not reviewable by the Board.

(Added Pub. L. 106–181, title V, § 505(a)(1), Apr. 5, 2000, 114 Stat. 134; amended Pub. L. 108–176, title V, § 501, Dec. 12, 2003, 117 Stat. 2556.)

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–176 struck out ''or'' at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C) and substituted ''described in subparagraph (A) or (B)'' for ''convicted of such a violation''.

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

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 44727. Runway safety areas

(a) AIRPORTS IN ALASKA.—An airport owner or operator in the State of Alaska shall not be required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet standards of the Federal Aviation Administration applicable to runway safety areas.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of runways at airports in States other than Alaska to determine which airports are affected by standards of the Federal Aviation Administration applicable to runway safety areas and to assess how operations at those airports would be affected if the owner or operator of the airport is required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet such standards.

(2) REPORT.—Not later than 9 months after the date of enactment of this section, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of the study.

(Added Pub. L. 108–176, title V, § 502(a), Dec. 12, 2003, 117 Stat. 2557.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(2), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

§ 44728. Flight attendant certification

(a) CERTIFICATE REQUIRED.—

(1) IN GENERAL.—No person may serve as a flight attendant aboard an aircraft of an air carrier unless that person holds a certificate of demonstrated proficiency from the Administrator of the Federal Aviation Administration. Upon the request of the Administrator or an authorized representative of the National Transportation Safety Board or another Federal agency, a person who holds such a certificate shall present the certificate for inspection within a reasonable period of time after the date of the request.

(2) SPECIAL RULE FOR CURRENT FLIGHT ATTENDANTS.—An individual serving as a flight attendant on the effective date of this section may continue to serve aboard an aircraft as a flight attendant until completion by that individual of the required recurrent or requalification training and subsequent certification under this section.

(3) TREATMENT OF FLIGHT ATTENDANT AFTER NOTIFICATION.—On the date that the Administrator is notified by an air carrier that an individual has the demonstrated proficiency to be a flight attendant, the individual shall be treated for purposes of this section as holding a certificate issued under the section.

(b) ISSUANCE OF CERTIFICATE.—The Administrator shall issue a certificate of demonstrated proficiency under this section to an individual after the Administrator is notified by the air carrier that the individual has successfully completed all the training requirements for flight attendants approved by the Administrator.

(c) DESIGNATION OF PERSON TO DETERMINE SUCCESSFUL COMPLETION OF TRAINING.—In accordance with part 183 of chapter 14, Code of Federal Regulation, the director of operations of an air carrier is designated to determine that an individual has successfully completed the training requirements approved by the Administrator for such individual to serve as a flight attendant.

(d) SPECIFICATIONS RELATING TO CERTIFICATES.—Each certificate issued under this section shall—

(1) be numbered and recorded by the Administrator;

(2) contain the name, address, and description of the individual to whom the certificate is issued;

(3) is[1] similar in size and appearance to certificates issued to airmen;

(4) contain the airplane group for which the certificate is issued; and

(5) be issued not later than 120 days after the Administrator receives notification from the air carrier of demonstrated proficiency and, in the case of an individual serving as flight attendant on the effective date of this section, not later than 1 year after such effective date.

(e) APPROVAL OF TRAINING PROGRAMS.—Air carrier flight attendant training programs shall be subject to approval by the Administrator. All flight attendant training programs approved by the Administrator in the 1-year period ending on the date of enactment of this section shall be treated as providing a demonstrated proficiency for purposes of meeting the certification requirements of this section.

(f) FLIGHT ATTENDANT DEFINED.—In this section, the term ''flight attendant'' means an individual working as a flight attendant in the cabin of an aircraft that has 20 or more seats and is being used by an air carrier to provide air transportation.

(Added Pub. L. 108–176, title VIII, § 814(a), Dec. 12, 2003, 117 Stat. 2590.)

[1] So in original. Probably should be ''be''.

REFERENCES IN TEXT

For effective date of this section, referred to in subsecs. (a)(2) and (d)(5), see Effective Date note below.

The date of enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

EFFECTIVE DATE

Pub. L. 108–176, title VIII, § 814(c), Dec. 12, 2003, 117 Stat. 2592, provided that: ''The amendments made by subsections (a) and (b) [enacting this section and amending the analysis to this chapter] shall take effect on the 365th day following the date of enactment of this Act [Dec. 12, 2003].''

§ 44729. Age standards for pilots

(a) IN GENERAL.—Subject to the limitation in subsection (c), a pilot may serve in multicrew covered operations until attaining 65 years of age.

(b) COVERED OPERATIONS DEFINED.—In this section, the term ''covered operations'' means operations under part 121 of title 14, Code of Federal Regulations.

(c) LIMITATION FOR INTERNATIONAL FLIGHTS.—

(1) APPLICABILITY OF ICAO STANDARD.—A pilot who has attained 60 years of age may serve as pilot-in-command in covered operations between the United States and another country only if there is another pilot in the flight deck crew who has not yet attained 60 years of age.

(2) SUNSET OF LIMITATION.—Paragraph (1) shall cease to be effective on such date as the Convention on International Civil Aviation provides that a pilot who has attained 60 years of age may serve as pilot-in-command in international commercial operations without regard to whether there is another pilot in the flight deck crew who has not attained age 60.

(d) SUNSET OF AGE 60 RETIREMENT RULE.—On and after the date of enactment of this section, section 121.383(c) of title 14, Code of Federal Regulations, shall cease to be effective.

(e) APPLICABILITY.—

(1) NONRETROACTIVITY.—No person who has attained 60 years of age before the date of enactment of this section may serve as a pilot for an air carrier engaged in covered operations unless—

(A) such person is in the employment of that air carrier in such operations on such date of enactment as a required flight deck crew member; or

(B) such person is newly hired by an air carrier as a pilot on or after such date of enactment without credit for prior seniority or prior longevity for benefits or other terms related to length of service prior to the date of rehire under any labor agreement or employment policies of the air carrier.

(2) PROTECTION FOR COMPLIANCE.—An action taken in conformance with this section, taken in conformance with a regulation issued to carry out this section, or taken prior to the date of enactment of this section in conformance with section 121.383(c) of title 14, Code of Federal Regulations (as in effect before such date of enactment), may not serve as a basis for liability or relief in a proceeding, brought under any employment law or regulation, before any court or agency of the United States or of any State or locality.

(f) AMENDMENTS TO LABOR AGREEMENTS AND BENEFIT PLANS.—Any amendment to a labor agreement or benefit plan of an air carrier that is required to conform with the requirements of this section or a regulation issued to carry out this section, and is applicable to pilots represented for collective bargaining, shall be made by agreement of the air carrier and the designated bargaining representative of the pilots of the air carrier.

(g) MEDICAL STANDARDS AND RECORDS.—

(1) MEDICAL EXAMINATIONS AND STANDARDS.—Except as provided by paragraph (2), a person serving as a pilot for an air carrier engaged in covered operations shall not be subject to different medical standards, or different, greater, or more frequent medical examinations, on account of age unless the Secretary determines (based on data received or studies published after the date of enactment of this section) that different medical standards, or different, greater, or more frequent medical examinations, are needed to ensure an adequate level of safety in flight.

(2) DURATION OF FIRST-CLASS MEDICAL CERTIFICATE.—No person who has attained 60 years of age may serve as a pilot of an air carrier engaged in covered operations unless the person has a first-class medical certificate. Such a certificate shall expire on the last day of the 6-month period following the date of examination shown on the certificate.

(h) SAFETY.—

(1) TRAINING.—Each air carrier engaged in covered operations shall continue to use pilot training and qualification programs approved by the Federal Aviation Administration, with specific emphasis on initial and recurrent training and qualification of pilots who have attained 60 years of age, to ensure continued acceptable levels of pilot skill and judgment.

(2) LINE EVALUATIONS.—Not later than 6 months after the date of enactment of this section, and every 6 months thereafter, an air carrier engaged in covered operations shall evaluate the performance of each pilot of the air carrier who has attained 60 years of age through a line check of such pilot. Notwithstanding the preceding sentence, an air carrier shall not be required to conduct for a 6-month period a line check under this paragraph of a pilot serving as second-in-command if the pilot has undergone a regularly scheduled simulator evaluation during that period.

(3) GAO REPORT.—Not later than 24 months after the date of enactment of this section, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report concerning the effect, if any, on aviation safety of the modification to pilot age standards made by subsection (a).

(Added Pub. L. 110–135, § 2(a), Dec. 13, 2007, 121 Stat. 1450.)

REFERENCES IN TEXT

The date of enactment of this section and such date of enactment, referred to in subsecs. (d), (e), (g)(1) and (h)(2), (3), is the date of enactment of Pub. L. 110–135, which was approved Dec. 13, 2007.

CHAPTER 449—SECURITY

SUBCHAPTER I—REQUIREMENTS

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[44931, 44932. Repealed.]
44933. Federal Security Managers.
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AMENDMENTS

2007—Pub. L. 110–53, title XVI, § 1606(b), Aug. 3, 2007, 121 Stat. 483, added item 44926.

2004—Pub. L. 108–458, title IV, § 4013(b), Dec. 17, 2004, 118 Stat. 3720, added item 44925.

Pub. L. 108–334, title V, § 515(c), Oct. 18, 2004, 118 Stat. 1318, added item 44945.

2003—Pub. L. 108–176, title VI, §§ 605(b)(3), 611(b)(2), Dec. 12, 2003, 117 Stat. 2568, 2572, added items 44923 and 44924.

Pub. L. 108–7, div. I, title III, § 351(c), Feb. 20, 2003, 117 Stat. 420, added item 44922.

2002—Pub. L. 107–296, title XIV, § 1402(b)(1), Nov. 25, 2002, 116 Stat. 2305, added item 44921.

2001—Pub. L. 107–71, title I, §§ 101(f)(6), 105(b), 107(b), 108(b), 113(b), 125(b), 131(b), Nov. 19, 2001, 115 Stat. 603, 607, 611, 613, 622, 632, 635, added items 44917 to 44920, 44939, 44941, and 44944 and struck out items 44931 ''Director of Intelligence and Security'' and 44932 ''Assistant Administrator for Civil Aviation Security''.

Pub. L. 107–71, title I, § 118(b), Nov. 19, 2001, 115 Stat. 627, which directed addition of item 44940 to the analysis for chapter 449 without specifying the Code title to be amended, was executed by adding item 44940 to this analysis to reflect the probable intent of Congress.

1996—Pub. L. 104–264, title III, § 312(b), Oct. 9, 1996, 110 Stat. 3254, added item 44916.

SUBCHAPTER I—REQUIREMENTS

§ 44901. Screening passengers and property

(a) IN GENERAL.—The Under Secretary of Transportation for Security shall provide for the screening of all passengers and property, including United States mail, cargo, carry-on and checked baggage, and other articles, that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. In the case of flights and flight segments originating in the United States, the screening shall take place before boarding and shall be carried out by a Federal Government employee (as defined in section 2105 of title 5, United States Code), except as otherwise provided in section 44919 or 44920 and except for identifying passengers and baggage for screening under the CAPPS and known shipper programs and conducting positive bag-match programs.

(b) SUPERVISION OF SCREENING.—All screening of passengers and property at airports in the United States where screening is required under this section shall be supervised by uniformed Federal personnel of the Transportation Security Administration who shall have the power to order the dismissal of any individual performing such screening.

(c) CHECKED BAGGAGE.—A system must be in operation to screen all checked baggage at all airports in the United States as soon as practicable but not later than the 60th day following the date of enactment of the Aviation and Transportation Security Act.

(d) EXPLOSIVE DETECTION SYSTEMS.—

(1) IN GENERAL.—The Under Secretary of Transportation for Security shall take all necessary action to ensure that—

(A) explosive detection systems are deployed as soon as possible to ensure that all United States airports described in section 44903(c) have sufficient explosive detection systems to screen all checked baggage no later than December 31, 2002, and that as soon as such systems are in place at an airport, all checked baggage at the airport is screened by those systems; and

(B) all systems deployed under subparagraph (A) are fully utilized; and

(C) if explosive detection equipment at an airport is unavailable, all checked baggage is screened by an alternative means.

(2) DEADLINE.—

(A) IN GENERAL.—If, in his discretion or at the request of an airport, the Under Secretary of Transportation for Security determines that the Transportation Security Administration is not able to deploy explosive detection systems required to be deployed

[1] Editorially supplied. Section added by Pub. L. 107–71 without corresponding amendment of chapter analysis.

under paragraph (1) at all airports where explosive detection systems are required by December 31, 2002, then with respect to each airport for which the Under Secretary makes that determination—

(i) the Under Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a detailed plan (which may be submitted in classified form) for the deployment of the number of explosive detection systems at that airport necessary to meet the requirements of paragraph (1) as soon as practicable at that airport but in no event later than December 31, 2003; and

(ii) the Under Secretary shall take all necessary action to ensure that alternative means of screening all checked baggage is implemented until the requirements of paragraph (1) have been met.

(B) CRITERIA FOR DETERMINATION.—In making a determination under subparagraph (A), the Under Secretary shall take into account—

(i) the nature and extent of the required modifications to the airport's terminal buildings, and the technical, engineering, design and construction issues;

(ii) the need to ensure that such installations and modifications are effective; and

(iii) the feasibility and cost-effectiveness of deploying explosive detection systems in the baggage sorting area or other nonpublic area rather than the lobby of an airport terminal building.

(C) RESPONSE.—The Under Secretary shall respond to the request of an airport under subparagraph (A) within 14 days of receiving the request. A denial of request shall create no right of appeal or judicial review.

(D) AIRPORT EFFORT REQUIRED.—Each airport with respect to which the Under Secretary makes a determination under subparagraph (A) shall—

(i) cooperate fully with the Transportation Security Administration with respect to screening checked baggage and changes to accommodate explosive detection systems; and

(ii) make security projects a priority for the obligation or expenditure of funds made available under chapter 417 or 471 until explosive detection systems required to be deployed under paragraph (1) have been deployed at that airport.

(3) REPORTS.—Until the Transportation Security Administration has met the requirements of paragraph (1), the Under Secretary shall submit a classified report every 30 days after the date of enactment of this Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the progress made toward meeting such requirements at each airport.

(e) MANDATORY SCREENING WHERE EDS NOT YET AVAILABLE.—As soon as practicable but not later than the 60th day following the date of enactment of the Aviation and Transportation Security Act and until the requirements of subsection (b)(1)(A) are met, the Under Secretary shall require alternative means for screening any piece of checked baggage that is not screened by an explosive detection system. Such alternative means may include 1 or more of the following:

(1) A bag-match program that ensures that no checked baggage is placed aboard an aircraft unless the passenger who checked the baggage is aboard the aircraft.

(2) Manual search.

(3) Search by canine explosive detection units in combination with other means.

(4) Other means or technology approved by the Under Secretary.

(f) CARGO DEADLINE.—A system must be in operation to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in all-cargo aircraft in air transportation and intrastate air transportation as soon as practicable after the date of enactment of the Aviation and Transportation Security Act.

(g) AIR CARGO ON PASSENGER AIRCRAFT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security shall establish a system to screen 100 percent of cargo transported on passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation to ensure the security of all such passenger aircraft carrying cargo.

(2) MINIMUM STANDARDS.—The system referred to in paragraph (1) shall require, at a minimum, that equipment, technology, procedures, personnel, or other methods approved by the Administrator of the Transportation Security Administration, are used to screen cargo carried on passenger aircraft described in paragraph (1) to provide a level of security commensurate with the level of security for the screening of passenger checked baggage as follows:

(A) 50 percent of such cargo is so screened not later than 18 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(B) 100 percent of such cargo is so screened not later than 3 years after such date of enactment.

(3) REGULATIONS.—

(A) INTERIM FINAL RULE.—The Secretary of Homeland Security may issue an interim final rule as a temporary regulation to implement this subsection without regard to the provisions of chapter 5 of title 5.

(B) FINAL RULE.—

(i) IN GENERAL.—If the Secretary issues an interim final rule under subparagraph (A), the Secretary shall issue, not later than one year after the effective date of the interim final rule, a final rule as a permanent regulation to implement this subsection in accordance with the provisions of chapter 5 of title 5.

(ii) FAILURE TO ACT.—If the Secretary does not issue a final rule in accordance with clause (i) on or before the last day of the one-year period referred to in clause (i), the Secretary shall submit to the Committee on Homeland Security of the House of Representatives, Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a report explaining why the final rule was not timely issued and providing an estimate of the earliest date on which the final rule will be issued. The Secretary shall submit the first such report within 10 days after such last day and submit a report to the Committees containing updated information every 30 days thereafter until the final rule is issued.

(iii) SUPERCEDING[1] OF INTERIM FINAL RULE.—The final rule issued in accordance with this subparagraph shall supersede the interim final rule issued under subparagraph (A).

(4) REPORT.—Not later than 1 year after the date of establishment of the system under paragraph (1), the Secretary shall submit to the Committees referred to in paragraph (3)(B)(ii) a report that describes the system.

(5) SCREENING DEFINED.—In this subsection the term ''screening'' means a physical examination or non-intrusive methods of assessing whether cargo poses a threat to transportation security. Methods of screening include x-ray systems, explosives detection systems, explosives trace detection, explosives detection canine teams certified by the Transportation Security Administration, or a physical search together with manifest verification. The Administrator may approve additional methods to ensure that the cargo does not pose a threat to transportation security and to assist in meeting the requirements of this subsection. Such additional cargo screening methods shall not include solely performing a review of information about the contents of cargo or verifying the identity of a shipper of the cargo that is not performed in conjunction with other security methods authorized under this subsection, including whether a known shipper is registered in the known shipper database. Such additional cargo screening methods may include a program to certify the security methods used by shippers pursuant to paragraphs (1) and (2) and alternative screening methods pursuant to exemptions referred to in subsection (b) of section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(h) DEPLOYMENT OF ARMED PERSONNEL.—

(1) IN GENERAL.—The Under Secretary shall order the deployment of law enforcement personnel authorized to carry firearms at each airport security screening location to ensure passenger safety and national security.

(2) MINIMUM REQUIREMENTS.—Except at airports required to enter into agreements under subsection (c), the Under Secretary shall order the deployment of at least 1 law enforcement officer at each airport security screening location. At the 100 largest airports in the United States, in terms of annual passenger enplanements for the most recent calendar year for which data are available, the Under Secretary shall order the deployment of additional law enforcement personnel at airport security screening locations if the Under Secretary determines that the additional deployment is necessary to ensure passenger safety and national security.

(i) EXEMPTIONS AND ADVISING CONGRESS ON REGULATIONS.—The Under Secretary—

(1) may exempt from this section air transportation operations, except scheduled passenger operations of an air carrier providing air transportation under a certificate issued under section 41102 of this title or a permit issued under section 41302 of this title; and

(2) shall advise Congress of a regulation to be prescribed under this section at least 30 days before the effective date of the regulation, unless the Under Secretary decides an emergency exists requiring the regulation to become effective in fewer than 30 days and notifies Congress of that decision.

(j) BLAST-RESISTANT CARGO CONTAINERS.—

(1) IN GENERAL.—Before January 1, 2008, the Administrator of the Transportation Security Administration shall—

(A) evaluate the results of the blast-resistant cargo container pilot program that was initiated before the date of enactment of this subsection; and

(B) prepare and distribute through the Aviation Security Advisory Committee to the appropriate Committees of Congress and air carriers a report on that evaluation which may contain nonclassified and classified sections.

(2) ACQUISITION, MAINTENANCE, AND REPLACEMENT.—Upon completion and consistent with the results of the evaluation that paragraph (1)(A) requires, the Administrator shall—

(A) develop and implement a program, as the Administrator determines appropriate, to acquire, maintain, and replace blast-resistant cargo containers;

(B) pay for the program; and

(C) make available blast-resistant cargo containers to air carriers pursuant to paragraph (3).

(3) DISTRIBUTION TO AIR CARRIERS.—The Administrator shall make available, beginning not later than July 1, 2008, blast-resistant cargo containers to air carriers for use on a risk managed basis as determined by the Administrator.

(k) GENERAL AVIATION AIRPORT SECURITY PROGRAM.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this subsection, the Administrator of the Transportation Security Administration shall—

(A) develop a standardized threat and vulnerability assessment program for general aviation airports (as defined in section 47134(m)); and

[1] So in original.

(B) implement a program to perform such assessments on a risk-managed basis at general aviation airports.

(2) GRANT PROGRAM.—Not later than 6 months after the date of enactment of this subsection, the Administrator shall initiate and complete a study of the feasibility of a program, based on a risk-managed approach, to provide grants to operators of general aviation airports (as defined in section 47134(m)) for projects to upgrade security at such airports. If the Administrator determines that such a program is feasible, the Administrator shall establish such a program.

(3) APPLICATION TO GENERAL AVIATION AIRCRAFT.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall develop a risk-based system under which—

(A) general aviation aircraft, as identified by the Administrator, in coordination with the Administrator of the Federal Aviation Administration, are required to submit passenger information and advance notification requirements for United States Customs and Border Protection before entering United States airspace; and

(B) such information is checked against appropriate databases.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Transportation Security Administration such sums as may be necessary to carry out paragraphs (2) and (3).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1204; Pub. L. 107–71, title I, §§ 101(f)(7), 110(b), Nov. 19, 2001, 115 Stat. 603, 614; Pub. L. 107–296, title IV, § 425, Nov. 25, 2002, 116 Stat. 2185; Pub. L. 110–53, title XVI, §§ 1602(a), 1609, 1617, Aug. 3, 2007, 121 Stat. 477, 484, 488.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44901(a)	49 App.:1356(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 315(a) (1st, 2d sentences, 3d sentence 19th–last words); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 415; Aug. 8, 1985, Pub. L. 99–83, § 551(b)(1), 99 Stat. 225.
44901(b)	49 App.:1356(a) (2d sentence).	
44901(c)(1) ..	49 App.:1356(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 315(c); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 415; Nov. 16, 1990, Pub. L. 101–604, § 102(a), 104 Stat. 3068.
44901(c)(2) ..	49 App.:1356(a) (3d sentence 19th–last words).	

In subsection (a), the words ''or continue in effect reasonable'', ''intended'', and ''the aircraft for such transportation'' are omitted as surplus.

In subsection (b), the words ''Notwithstanding subsection (a) of this section'' are added for clarity. The words ''One year after August 5, 1974, or after the effective date of such regulations, whichever is later'' are omitted as executed. The words ''alter or'', ''a continuation of'', ''the extent deemed necessary to'', and ''acts of'' are omitted as surplus.

In subsection (c)(1), the words ''in whole or in part'' and ''those'' are omitted as surplus. The word ''providing'' is substituted for ''engaging in'' for consistency in the revised title. The words ''interstate, overseas, or foreign'' are omitted because of the definition of ''air transportation'' in section 40102(a) of the revised title. The words ''of public convenience and necessity'', ''by the Civil Aeronautics Board'', ''foreign air carrier'', and ''by the Board'' are omitted as surplus.

In subsection (c)(2), the words ''or amendments thereto'' and ''or amendments'' are omitted as surplus.

REFERENCES IN TEXT

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

The date of enactment of this Act, referred to in subsec. (d)(3), probably means the date of enactment of Pub. L. 107–296, which enacted subsec. (d)(2), (3) of this section and was approved Nov. 25, 2002.

The date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, such date of enactment, and the date of enactment of this subsection, referred to in subsecs. (g)(1), (2), (j)(1)(A), and (k)(1)–(3), is the date of enactment of Pub. L. 110–53, which was approved Aug. 3, 2007.

Subsection (b) of section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007, referred to in subsec. (g)(5), is section 1602(b) of Pub. L. 110–53, title XVI, Aug. 3, 2007, 121 Stat. 479, which is not classified to the Code.

AMENDMENTS

2007—Subsecs. (g) to (i). Pub. L. 110–53, § 1602(a), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

Subsec. (j). Pub. L. 110–53, § 1609, added subsec. (j).

Subsec. (k). Pub. L. 110–53, § 1617, added subsec. (k).

2002—Subsec. (d)(2), (3). Pub. L. 107–296 added pars. (2) and (3).

2001—Subsec. (a). Pub. L. 107–71, § 110(b)(2), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''The Administrator of the Federal Aviation Administration shall prescribe regulations requiring screening of all passengers and property that will be carried in a cabin of an aircraft in air transportation or intrastate air transportation. The screening must take place before boarding and be carried out by a weapon-detecting facility or procedure used or operated by an employee or agent of an air carrier, intrastate air carrier, or foreign air carrier.''

Subsec. (b). Pub. L. 107–71, § 110(b)(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''Notwithstanding subsection (a) of this section, the Administrator may amend a regulation prescribed under subsection (a) to require screening only to ensure security against criminal violence and aircraft piracy in air transportation and intrastate air transportation.''

Subsec. (c). Pub. L. 107–71, § 110(b)(2), added subsec. (c). Former subsec. (c) redesignated (h).

Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in introductory provisions and par. (2).

Subsecs. (d) to (g). Pub. L. 107–71, § 110(b)(2), added subsecs. (d) to (g).

Subsec. (h). Pub. L. 107–71, § 110(b)(1), redesignated subsec. (c) as (h).

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.

SAVINGS PROVISION

Pub. L. 107–71, title I, § 141, Nov. 19, 2001, 115 Stat. 643, provided that:

''(a) TRANSFER OF ASSETS AND PERSONNEL.—Except as otherwise provided in this Act [see Tables for classi-

fication], those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Transportation Security Administration by this Act shall be transferred to the Transportation Security Administration for use in connection with the functions transferred. Unexpended balances of appropriations, allocations, and other funds made available to the Federal Aviation Administration to carry out such functions shall also be transferred to the Transportation Security Administration for use in connection with the functions transferred.

''(b) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

''(1) that have been issued, made, granted, or allowed to become effective by the Federal Aviation Administration, any officer or employee thereof, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act; and

''(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Under Secretary of Transportation for Security, any other authorized official, a court of competent jurisdiction, or operation of law.

''(c) PROCEEDINGS.—

''(1) IN GENERAL.—The provisions of this Act shall not affect any proceedings or any application for any license pending before the Federal Aviation Administration at the time this Act takes effect [Nov. 19, 2001], insofar as those functions are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

''(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

''(3) ORDERLY TRANSFER.—The Secretary of Transportation is authorized to provide for the orderly transfer of pending proceedings from the Federal Aviation Administration.

''(d) SUITS.—

''(1) IN GENERAL.—This Act shall not affect suits commenced before the date of the enactment of this Act [Nov. 19, 2001], except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

''(2) SUITS BY OR AGAINST FAA.—Any suit by or against the Federal Aviation Administration begun before the date of the enactment of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Transportation Security Administration (to the extent the suit involves functions transferred to the Transportation Security Administration under this Act) substituted for the Federal Aviation Administration.

''(3) REMANDED CASES.—If the court in a suit described in paragraph (1) remands a case to the Transportation Security Administration, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

''(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Federal Aviation Administration shall abate by reason of the enactment of this Act. No cause of action by or against the Federal Aviation Administration, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act.

''(f) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Transportation Security Administration may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act.

''(g) ACT DEFINED.—In this section, the term 'Act' includes the amendments made by this Act.''

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TRANSITION PROVISIONS

Pub. L. 107–71, title I, § 101(g), Nov. 19, 2001, 115 Stat. 603, provided that:

''(1) SCHEDULE FOR ASSUMPTION OF CIVIL AVIATION SECURITY FUNCTIONS.—Not later than 3 months after the date of enactment of this Act [Nov. 19, 2001], the Under Secretary of Transportation for Security shall assume civil aviation security functions and responsibilities under chapter 449 of title 49, United States Code, as amended by this Act, in accordance with a schedule to be developed by the Secretary of Transportation, in consultation with air carriers, foreign air carriers, and the Administrator of the Federal Aviation Administration. The Under Secretary shall publish an appropriate notice of the transfer of such security functions and responsibilities before assuming the functions and responsibilities.

''(2) ASSUMPTION OF CONTRACTS.—As of the date specified in paragraph (1), the Under Secretary may assume the rights and responsibilities of an air carrier or foreign air carrier contract for provision of passenger screening services at airports in the United States described in section 44903(c), subject to payment of adequate compensation to parties to the contract, if any.

''(3) ASSIGNMENT OF CONTRACTS.—

''(A) IN GENERAL.—Upon request of the Under Secretary, an air carrier or foreign air carrier carrying out a screening or security function under chapter 449 of title 49, United States Code, may enter into an agreement with the Under Secretary to transfer any contract the carrier has entered into with respect to carrying out the function, before the Under Secretary assumes responsibility for the function.

''(B) SCHEDULE.—The Under Secretary may enter into an agreement under subparagraph (A) as soon as possible, but not later than 90 days after the date of enactment of this Act [Nov. 19, 2001]. The Under Secretary may enter into such an agreement for one 180-day period and may extend such agreement for one 90-day period if the Under Secretary determines it necessary.

''(4) TRANSFER OF OWNERSHIP.—In recognition of the assumption of the financial costs of security screening of passengers and property at airports, and as soon as practical after the date of enactment of this Act [Nov.

19, 2001], air carriers may enter into agreements with the Under Secretary to transfer the ownership, at no cost to the United States Government, of any personal property, equipment, supplies, or other material associated with such screening, regardless of the source of funds used to acquire the property, that the Secretary determines to be useful for the performance of security screening of passengers and property at airports.

''(5) PERFORMANCE OF UNDER SECRETARY'S FUNCTIONS DURING INTERIM PERIOD.—Until the Under Secretary takes office, the functions of the Under Secretary that relate to aviation security may be carried out by the Secretary or the Secretary's designee.''

PROTECTION OF PASSENGER PLANES FROM EXPLOSIVES

Pub. L. 110–53, title XVI, § 1610, Aug. 3, 2007, 121 Stat. 484, provided that:

''(a) TECHNOLOGY RESEARCH AND PILOT PROJECTS.—

''(1) RESEARCH AND DEVELOPMENT.—The Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall expedite research and development programs for technologies that can disrupt or prevent an explosive device from being introduced onto a passenger plane or from damaging a passenger plane while in flight or on the ground. The research shall be used in support of implementation of section 44901 of title 49, United States Code.

''(2) PILOT PROJECTS.—The Secretary, in conjunction with the Secretary of Transportation, shall establish a grant program to fund pilot projects—

''(A) to deploy technologies described in paragraph (1); and

''(B) to test technologies to expedite the recovery, development, and analysis of information from aircraft accidents to determine the cause of the accident, including deployable flight deck and voice recorders and remote location recording devices.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2008 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.''

STANDARDS FOR INCREASING THE USE OF EXPLOSIVE DETECTION EQUIPMENT

Pub. L. 109–295, title V, § 518, Oct. 4, 2006, 120 Stat. 1380, provided that: ''The Secretary of Homeland Security, in consultation with industry stakeholders, shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 109–90, title V, § 524, Oct. 18, 2005, 119 Stat. 2086.

USE OF EXISTING EQUIPMENT TO SCREEN PASSENGER CARGO; REPORTS

Pub. L. 109–90, title V, § 525, Oct. 18, 2005, 119 Stat. 2086, provided that: ''The Transportation Security Administration (TSA) shall utilize existing checked baggage explosive detection equipment and screeners to screen cargo carried on passenger aircraft to the greatest extent practicable at each airport: *Provided*, That beginning with November 2005, TSA shall provide a monthly report to the Committees on Appropriations of the Senate and the House of Representatives detailing, by airport, the amount of cargo carried on passenger aircraft that was screened by TSA in August 2005 and each month thereafter.''

IN-LINE CHECKED BAGGAGE SCREENING

Pub. L. 108–458, title IV, § 4019(a), (b), Dec. 17, 2004, 118 Stat. 3721, provided that:

''(a) IN-LINE BAGGAGE SCREENING EQUIPMENT.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as may be necessary to expedite the installation and use of in-line baggage screening equipment at airports at which screening is required by section 44901 of title 49, United States Code.

''(b) SCHEDULE.—Not later than 180 days after the date of enactment of this Act [Dec. 17, 2004], the Assistant Secretary shall submit to the appropriate congressional committees a schedule to expedite the installation and use of in-line baggage screening equipment at such airports, with an estimate of the impact that such equipment, facility modification, and baggage conveyor placement will have on staffing needs and levels related to aviation security.''

CHECKED BAGGAGE SCREENING AREA MONITORING

Pub. L. 108–458, title IV, § 4020, Dec. 17, 2004, 118 Stat. 3722, provided that:

''(a) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide, subject to the availability of funds, assistance to airports at which screening is required by section 44901 of title 49, United States Code, and that have checked baggage screening areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2005 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.''

PILOT PROGRAM TO EVALUATE USE OF BLAST RESISTANT CARGO AND BAGGAGE CONTAINERS

Pub. L. 108–458, title IV, § 4051, Dec. 17, 2004, 118 Stat. 3728, directed the Assistant Secretary of Homeland Security (Transportation Security Administration), beginning not later than 180 days after Dec. 17, 2004, to carry out a pilot program to evaluate the use of blast-resistant containers for cargo and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device, and directed the Assistant Secretary to provide incentives to air carriers to volunteer to participate in such program.

AIR CARGO SECURITY

Pub. L. 108–458, title IV, § 4052, Dec. 17, 2004, 118 Stat. 3728, provided that:

''(a) AIR CARGO SCREENING TECHNOLOGY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop technology to better identify, track, and screen air cargo.

''(b) IMPROVED AIR CARGO AND AIRPORT SECURITY.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

''(1) $200,000,000 for fiscal year 2005;

''(2) $200,000,000 for fiscal year 2006; and

''(3) $200,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

''(c) RESEARCH, DEVELOPMENT, AND DEPLOYMENT.—To carry out subsection (a), there is authorized to be appropriated to the Secretary, in addition to any amounts otherwise authorized by law, for research and development related to enhanced air cargo security technology as well as for deployment and installation of enhanced air cargo security technology—

''(1) $100,000,000 for fiscal year 2005;

''(2) $100,000,000 for fiscal year 2006; and

''(3) $100,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

''(d) ADVANCED CARGO SECURITY GRANTS.—

''(1) IN GENERAL.—The Secretary shall establish and carry out a program to issue competitive grants to

encourage the development of advanced air cargo security technology, including use of innovative financing or other means of funding such activities. The Secretary may make available funding for this purpose from amounts appropriated pursuant to subsection (c).

''(2) ELIGIBILITY CRITERIA, ETC.—The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and rapidly as possible.''

IDENTIFICATION STANDARDS

Pub. L. 108–458, title VII, § 7220, Dec. 17, 2004, 118 Stat. 3835, provided that:

''(a) PROPOSED STANDARDS.—

''(1) IN GENERAL.—The Secretary of Homeland Security—

''(A) shall propose minimum standards for identification documents required of domestic commercial airline passengers for boarding an aircraft; and

''(B) may, from time to time, propose minimum standards amending or replacing standards previously proposed and transmitted to Congress and approved under this section.

''(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act [Dec. 17, 2004], the Secretary shall submit the standards under paragraph (1)(A) to the Senate and the House of Representatives on the same day while each House is in session.

''(3) EFFECTIVE DATE.—Any proposed standards submitted to Congress under this subsection shall take effect when an approval resolution is passed by the House and the Senate under the procedures described in subsection (b) and becomes law.

''(b) CONGRESSIONAL APPROVAL PROCEDURES.—

''(1) RULEMAKING POWER.—This subsection is enacted by Congress—

''(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of such approval resolutions; and it supersedes other rules only to the extent that they are inconsistent therewith; and

''(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

''(2) APPROVAL RESOLUTION.—For the purpose of this subsection, the term 'approval resolution' means a joint resolution of Congress, the matter after the resolving clause of which is as follows: 'That the Congress approves the proposed standards issued under section 7220 of the 9/11 Commission Implementation Act of 2004, transmitted by the President to the Congress on _____', the blank space being filled in with the appropriate date.

''(3) INTRODUCTION.—Not later than the first day of session following the day on which proposed standards are transmitted to the House of Representatives and the Senate under subsection (a), an approval resolution—

''(A) shall be introduced (by request) in the House by the Majority Leader of the House of Representatives, for himself or herself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House; and

''(B) shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate.

''(4) PROHIBITIONS.—

''(A) AMENDMENTS.—No amendment to an approval resolution shall be in order in either the House of Representatives or the Senate.

''(B) MOTIONS TO SUSPEND.—No motion to suspend the application of this paragraph shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this paragraph by unanimous consent.

''(5) REFERRAL.—

''(A) IN GENERAL.—An approval resolution shall be referred to the committees of the House of Representatives and of the Senate with jurisdiction. Each committee shall make its recommendations to the House of Representatives or the Senate, as the case may be, within 45 days after its introduction. Except as provided in subparagraph (B), if a committee to which an approval resolution has been referred has not reported it at the close of the 45th day after its introduction, such committee shall be automatically discharged from further consideration of the resolution and it shall be placed on the appropriate calendar.

''(B) FINAL PASSAGE.—A vote on final passage of the resolution shall be taken in each House on or before the close of the 15th day after the resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

''(C) COMPUTATION OF DAYS.—For purposes of this paragraph, in computing a number of days in either House, there shall be excluded any day on which that House is not in session.

''(6) COORDINATION WITH ACTION OF OTHER HOUSE.—If prior to the passage by one House of an approval resolution of that House, that House receives the same approval resolution from the other House, then the procedure in that House shall be the same as if no approval resolution has been received from the other House, but the vote on final passage shall be on the approval resolution of the other House.

''(7) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

''(A) MOTION TO PROCEED.—A motion in the House of Representatives to proceed to the consideration of an approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, not shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

''(B) DEBATE.—Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 4 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. It shall not be in order to move to recommit an approval resolution or to move to reconsider the vote by which an approval resolution is agreed to or disagreed to.

''(C) MOTION TO POSTPONE.—Motions to postpone made in the House of Representatives with respect to the consideration of an approval resolution and motions to proceed to the consideration of other business shall be decided without debate.

''(D) APPEALS.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

''(E) RULES OF THE HOUSE OF REPRESENTATIVES.—Except to the extent specifically provided in subparagraphs (A) through (D), consideration of an approval resolution shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

''(8) FLOOR CONSIDERATION IN THE SENATE.—

''(A) MOTION TO PROCEED.—A motion in the Senate to proceed to the consideration of an approval reso-

lution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

''(B) DEBATE ON RESOLUTION.—Debate in the Senate on an approval resolution, and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader, or their designees.

''(C) DEBATE ON MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with an approval resolution shall be limited to not more than 1 hour, which shall be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or designee. Such leaders, or either of them, may, from time under their control on the passage of an approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

''(D) LIMIT ON DEBATE.—A motion in the Senate to further limit debate is not debatable. A motion to recommit an approval resolution is not in order.

''(c) DEFAULT STANDARDS.—

''(1) IN GENERAL.—If the standards proposed under subsection (a)(1)(A) are not approved pursuant to the procedures described in subsection (b), then not later than 1 year after rejection by a vote of either House of Congress, domestic commercial airline passengers seeking to board an aircraft shall present, for identification purposes—

''(A) a valid, unexpired passport;

''(B) domestically issued documents that the Secretary of Homeland Security designates as reliable for identification purposes;

''(C) any document issued by the Attorney General or the Secretary of Homeland Security under the authority of 1 of the immigration laws (as defined under section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))[]); or

''(D) a document issued by the country of nationality of any alien not required to possess a passport for admission to the United States that the Secretary designates as reliable for identifications purposes

''(2) EXCEPTION.—The documentary requirements described in paragraph (1)—

''(A) shall not apply to individuals below the age of 17, or such other age as determined by the Secretary of Homeland Security;

''(B) may be waived by the Secretary of Homeland Security in the case of an unforeseen medical emergency.

''(d) RECOMMENDATION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Dec. 17, 2004], the Secretary of Homeland Security shall recommend to Congress—

''(1) categories of Federal facilities that the Secretary determines to be at risk for terrorist attack and requiring minimum identification standards for access to such facilities; and

''(2) appropriate minimum identification standards to gain access to those facilities.''

DEADLINE FOR DEPLOYMENT OF FEDERAL SCREENERS

Pub. L. 107–71, title I, § 110(c), Nov. 19, 2001, 115 Stat. 616, provided that:

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 19, 2001], the Under Secretary of Transportation for Security shall deploy at all airports in the United States where screening is required under section 44901 of title 49, United States Code, a sufficient number of Federal screeners, Federal Security Managers, Federal security personnel, and Federal law enforcement officers to conduct the screening of all passengers and property under section 44901 of such title at such airports.

''(2) CERTIFICATION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Under Secretary shall transmit to Congress a certification that the requirement of paragraph (1) has been met.''

REPORTS

Pub. L. 107–71, title I, § 110(d), Nov. 19, 2001, 115 Stat. 616, provided that:

''(1) DEPLOYMENT.—Within 6 months after the date of enactment of this Act [Nov. 19, 2001], the Under Secretary of Transportation for Security shall report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives on the deployment of the systems required by section 44901(c) of title 49, United States Code. The Under Secretary shall include in the report—

''(A) an installation schedule;

''(B) the dates of installation of each system; and

''(C) the date on which each system installed is operational.

''(2) SCREENING OF SMALL AIRCRAFT.—Within 1 year after the date of enactment of this Act [Nov. 19, 2001], the Under Secretary of Transportation for Security shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives on the screening requirements applicable to passengers boarding, and property being carried aboard, aircraft with 60 seats or less used in scheduled passenger service with recommendations for any necessary changes in those requirements.''

INSTALLATION OF ADVANCED SECURITY EQUIPMENT; AGREEMENTS

Pub. L. 104–264, title III, § 305(b), Oct. 9, 1996, 110 Stat. 3252, provided that: ''The Administrator is authorized to use noncompetitive or cooperative agreements with air carriers and airport authorities that provide for the Administrator to purchase and assist in installing advanced security equipment for the use of such entities.''

PASSENGER PROFILING

Pub. L. 104–264, title III, § 307, Oct. 9, 1996, 110 Stat. 3253, provided that: ''The Administrator of the Federal Aviation Administration, the Secretary of Transportation, the intelligence community, and the law enforcement community should continue to assist air carriers in developing computer-assisted passenger profiling programs and other appropriate passenger profiling programs which should be used in conjunction with other security measures and technologies.''

AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES

Pub. L. 104–264, title III, § 308, Oct. 9, 1996, 110 Stat. 3253, which provided that funds from project grants made under subchapter I of chapter 471 of this title and passenger facility fees collected under section 40117 of this title could be used for the improvement of facilities and the purchase and deployment of equipment to enhance and ensure safe air travel, was repealed by Pub. L. 108–176, title I, § 143, Dec. 12, 2003, 117 Stat. 2503.

INSTALLATION AND USE OF EXPLOSIVE DETECTION EQUIPMENT

Pub. L. 101–45, title I, June 30, 1989, 103 Stat. 110, provided in part that: ''Not later than thirty days after the date of the enactment of this Act [June 30, 1989], the Federal Aviation Administrator shall initiate action, including such rulemaking or other actions as necessary, to require the use of explosive detection equipment that meets minimum performance standards requiring application of technology equivalent to or better than thermal neutron analysis technology at such airports (whether located within or outside the United States) as the Administrator determines that the installation and use of such equipment is necessary to en-

sure the safety of air commerce. The Administrator shall complete these actions within sixty days of enactment of this Act''.

RESEARCH AND DEVELOPMENT OF IMPROVED AIRPORT SECURITY SYSTEMS

Pub. L. 100–649, § 2(d), Nov. 10, 1988, 102 Stat. 3817, provided that: ''The Administrator of the Federal Aviation Administration shall conduct such research and development as may be necessary to improve the effectiveness of airport security metal detectors and airport security x-ray systems in detecting firearms that, during the 10-year period beginning on the effective date of this Act [see Effective Date of 1988 Amendment; Sunset Provision note set out under section 922 of Title 18, Crimes and Criminal Procedure], are subject to the prohibitions of section 922(p) of title 18, United States Code.''

DEFINITIONS OF TERMS IN TITLE IV OF PUB. L. 108–458

Pub. L. 108–458, title IV, § 4081, Dec. 17, 2004, 118 Stat. 3731, provided that: ''In this title [enacting section 44925 of this title, amending sections 114, 44903, 44904, 44909, 44917, 44923, 46301 to 46303, and 48301 of this title and sections 70102 and 70103 of Title 46, Shipping, and enacting provisions set out as notes under this section, sections 114, 44703, 44913, 44917, 44923, 44925, and 44935 of this title, section 2751 of Title 22, Foreign Relations and Intercourse, and section 70101 of Title 46] (other than in sections 4001 and 4026 [amending sections 114 and 44904 of this title and enacting provisions set out as a note under section 2751 of Title 22]), the following definitions apply:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

''(2) AVIATION DEFINITIONS.—The terms 'air carrier', 'air transportation', 'aircraft', 'airport', 'cargo', 'foreign air carrier', and 'intrastate air transportation' have the meanings given such terms in section 40102 of title 49, United States Code.

''(3) SECURE AREA OF AN AIRPORT.—The term 'secure area of an airport' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulations).''

DEFINITIONS OF TERMS IN PUB. L. 107–71

For definitions of terms used in sections 101(g) and 110(c), (d), of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.

§ 44902. Refusal to transport passengers and property

(a) MANDATORY REFUSAL.—The Under Secretary of Transportation for Security shall prescribe regulations requiring an air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) a passenger who does not consent to a search under section 44901(a) of this title establishing whether the passenger is carrying unlawfully a dangerous weapon, explosive, or other destructive substance; or

(2) property of a passenger who does not consent to a search of the property establishing whether the property unlawfully contains a dangerous weapon, explosive, or other destructive substance.

(b) PERMISSIVE REFUSAL.—Subject to regulations of the Under Secretary, an air carrier, intrastate air carrier, or foreign air carrier may refuse to transport a passenger or property the carrier decides is, or might be, inimical to safety.

(c) AGREEING TO CONSENT TO SEARCH.—An agreement to carry passengers or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier is deemed to include an agreement that the passenger or property will not be carried if consent to search the passenger or property for a purpose referred to in this section is not given.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1204; Pub. L. 107–71, title I, § 101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44902(a)	49 App.:1511(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1111; added Sept. 5, 1961, Pub. L. 87–197, § 4, 75 Stat. 467; restated Aug. 5, 1974, Pub. L. 93–366, § 204, 88 Stat. 418.
44902(b)	49 App.:1511(a) (last sentence).	
44902(c)	49 App.:1511(b).	

In this section, the word ''passenger'' is substituted for ''person'' for consistency in the revised title.

In subsection (a)(1), the words ''of his person'' are omitted as surplus.

In subsection (a)(2), the words ''or inspection'' are omitted as surplus.

In subsection (b), the words ''reasonable'' and ''also'' are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''. The words ''the carrier decides is'' are substituted for ''when, in the opinion of the carrier, such transportation would'' to eliminate unnecessary words. The words ''of flight'' are omitted as surplus.

In subsection (c), the words ''for compensation or hire'' are omitted because of the definitions of ''air transportation'' and ''intrastate air transportation'' in section 40102(a) of the revised title. The word ''inspect'' is omitted as surplus.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71 substituted ''Under Secretary of Transportation for Security'' for ''Administrator of the Federal Aviation Administration'' in introductory provisions.

Subsec. (b). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44903. Air transportation security

(a) DEFINITION.—In this section, ''law enforcement personnel'' means individuals—

(1) authorized to carry and use firearms;

(2) vested with the degree of the police power of arrest the Under Secretary of Transportation for Security considers necessary to carry out this section; and

(3) identifiable by appropriate indicia of authority.

(b) PROTECTION AGAINST VIOLENCE AND PIRACY.—The Under Secretary shall prescribe regulations to protect passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy. When prescribing a regulation under this subsection, the Under Secretary shall—

(1) consult with the Secretary of Transportation, the Attorney General, the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities;

(2) consider whether a proposed regulation is consistent with—

(A) protecting passengers; and

(B) the public interest in promoting air transportation and intrastate air transportation;

(3) to the maximum extent practicable, require a uniform procedure for searching and detaining passengers and property to ensure—

(A) their safety; and

(B) courteous and efficient treatment by an air carrier, an agent or employee of an air carrier, and Government, State, and local law enforcement personnel carrying out this section; and

(4) consider the extent to which a proposed regulation will carry out this section.

(c) SECURITY PROGRAMS.—(1) The Under Secretary shall prescribe regulations under subsection (b) of this section that require each operator of an airport regularly serving an air carrier holding a certificate issued by the Secretary of Transportation to establish an air transportation security program that provides a law enforcement presence and capability at each of those airports that is adequate to ensure the safety of passengers. The regulations shall authorize the operator to use the services of qualified State, local, and private law enforcement personnel. When the Under Secretary decides, after being notified by an operator in the form the Under Secretary prescribes, that not enough qualified State, local, and private law enforcement personnel are available to carry out subsection (b), the Under Secretary may authorize the operator to use, on a reimbursable basis, personnel employed by the Under Secretary, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality, to supplement State, local, and private law enforcement personnel. When deciding whether additional personnel are needed, the Under Secretary shall consider the number of passengers boarded at the airport, the extent of anticipated risk of criminal violence or aircraft piracy at the airport or to the air carrier aircraft operations at the airport, and the availability of qualified State or local law enforcement personnel at the airport.

(2)(A) The Under Secretary may approve a security program of an airport operator, or an amendment in an existing program, that incorporates a security program of an airport tenant (except an air carrier separately complying with part 108 or 129 of title 14, Code of Federal Regulations) having access to a secured area of the airport, if the program or amendment incorporates—

(i) the measures the tenant will use, within the tenant's leased areas or areas designated for the tenant's exclusive use under an agreement with the airport operator, to carry out the security requirements imposed by the Under Secretary on the airport operator under the access control system requirements of section 107.14 of title 14, Code of Federal Regulations, or under other requirements of part 107 of title 14; and

(ii) the methods the airport operator will use to monitor and audit the tenant's compliance with the security requirements and provides that the tenant will be required to pay monetary penalties to the airport operator if the tenant fails to carry out a security requirement under a contractual provision or requirement imposed by the airport operator.

(B) If the Under Secretary approves a program or amendment described in subparagraph (A) of this paragraph, the airport operator may not be found to be in violation of a requirement of this subsection or subsection (b) of this section when the airport operator demonstrates that the tenant or an employee, permittee, or invitee of the tenant is responsible for the violation and that the airport operator has complied with all measures in its security program for securing compliance with its security program by the tenant.

(C) MAXIMUM USE OF CHEMICAL AND BIOLOGICAL WEAPON DETECTION EQUIPMENT.—The Secretary of Transportation may require airports to maximize the use of technology and equipment that is designed to detect or neutralize potential chemical or biological weapons.

(3) PILOT PROGRAMS.—The Administrator shall establish pilot programs in no fewer than 20 airports to test and evaluate new and emerging technology for providing access control and other security protections for closed or secure areas of the airports. Such technology may include biometric or other technology that ensures only authorized access to secure areas.

(d) AUTHORIZING INDIVIDUALS TO CARRY FIREARMS AND MAKE ARRESTS.—With the approval of the Attorney General and the Secretary of State, the Secretary of Transportation may authorize an individual who carries out air transportation security duties—

(1) to carry firearms; and

(2) to make arrests without warrant for an offense against the United States committed in the presence of the individual or for a felony under the laws of the United States, if the individual reasonably believes the individual to be arrested has committed or is committing a felony.

(e) EXCLUSIVE RESPONSIBILITY OVER PASSENGER SAFETY.—The Under Secretary has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow

passengers to leave the aircraft. When requested by the Under Secretary, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection.

(f) GOVERNMENT AND INDUSTRY CONSORTIA.—The Under Secretary may establish at airports such consortia of government and aviation industry representatives as the Under Secretary may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered Federal advisory committees for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(g) IMPROVEMENT OF SECURED-AREA ACCESS CONTROL.—

(1) ENFORCEMENT.—

(A) UNDER SECRETARY TO PUBLISH SANCTIONS.—The Under Secretary shall publish in the Federal Register a list of sanctions for use as guidelines in the discipline of employees for infractions of airport access control requirements. The guidelines shall incorporate a progressive disciplinary approach that relates proposed sanctions to the severity or recurring nature of the infraction and shall include measures such as remedial training, suspension from security-related duties, suspension from all duties without pay, and termination of employment.

(B) USE OF SANCTIONS.—Each airport operator, air carrier, and security screening company shall include the list of sanctions published by the Under Secretary in its security program. The security program shall include a process for taking prompt disciplinary action against an employee who commits an infraction of airport access control requirements.

(2) IMPROVEMENTS.—The Under Secretary shall—

(A) work with airport operators and air carriers to implement and strengthen existing controls to eliminate airport access control weaknesses;

(B) require airport operators and air carriers to develop and implement comprehensive and recurring training programs that teach employees their roles in airport security, the importance of their participation, how their performance will be evaluated, and what action will be taken if they fail to perform;

(C) require airport operators and air carriers to develop and implement programs that foster and reward compliance with airport access control requirements and discourage and penalize noncompliance in accordance with guidelines issued by the Under Secretary to measure employee compliance;

(D) on an ongoing basis, assess and test for compliance with access control requirements, report annually findings of the assessments, and assess the effectiveness of penalties in ensuring compliance with security procedures and take any other appropriate enforcement actions when noncompliance is found;

(E) improve and better administer the Under Secretary's security database to ensure its efficiency, reliability, and usefulness for identification of systemic problems and allocation of resources;

(F) improve the execution of the Under Secretary's quality control program; and

(G) work with airport operators to strengthen access control points in secured areas (including air traffic control operations areas, maintenance areas, crew lounges, baggage handling areas, concessions, and catering delivery areas) to ensure the security of passengers and aircraft and consider the deployment of biometric or similar technologies that identify individuals based on unique personal characteristics.

(h) IMPROVED AIRPORT PERIMETER ACCESS SECURITY.—

(1) IN GENERAL.—The Under Secretary, in consultation with the airport operator and law enforcement authorities, may order the deployment of such personnel at any secure area of the airport as necessary to counter the risk of criminal violence, the risk of aircraft piracy at the airport, the risk to air carrier aircraft operations at the airport, or to meet national security concerns.

(2) SECURITY OF AIRCRAFT AND GROUND ACCESS TO SECURE AREAS.—In determining where to deploy such personnel, the Under Secretary shall consider the physical security needs of air traffic control facilities, parked aircraft, aircraft servicing equipment, aircraft supplies (including fuel), automobile parking facilities within airport perimeters or adjacent to secured facilities, and access and transition areas at airports served by other means of ground or water transportation.

(3) DEPLOYMENT OF FEDERAL LAW ENFORCEMENT PERSONNEL.—The Secretary may enter into a memorandum of understanding or other agreement with the Attorney General or the head of any other appropriate Federal law enforcement agency to deploy Federal law enforcement personnel at an airport in order to meet aviation safety and security concerns.

(4) AIRPORT PERIMETER SCREENING.—The Under Secretary—

(A) shall require, as soon as practicable after the date of enactment of this subsection, screening or inspection of all individuals, goods, property, vehicles, and other equipment before entry into a secured area of an airport in the United States described in section 44903(c);

(B) shall prescribe specific requirements for such screening and inspection that will assure at least the same level of protection as will result from screening of passengers and their baggage;

(C) shall establish procedures to ensure the safety and integrity of—

(i) all persons providing services with respect to aircraft providing passenger air transportation or intrastate air transportation and facilities of such persons at an airport in the United States described in section 44903(c);

(ii) all supplies, including catering and passenger amenities, placed aboard such aircraft, including the sealing of supplies

to ensure easy visual detection of tampering; and

(iii) all persons providing such supplies and facilities of such persons;

(D) shall require vendors having direct access to the airfield and aircraft to develop security programs; and

(E) shall issue, not later than March 31, 2005, guidance for the use of biometric or other technology that positively verifies the identity of each employee and law enforcement officer who enters a secure area of an airport.

(5) USE OF BIOMETRIC TECHNOLOGY IN AIRPORT ACCESS CONTROL SYSTEMS.—In issuing guidance under paragraph (4)(E), the Assistant Secretary of Homeland Security (Transportation Security Administration) in consultation with representatives of the aviation industry, the biometric identifier industry, and the National Institute of Standards and Technology, shall establish, at a minimum—

(A) comprehensive technical and operational system requirements and performance standards for the use of biometric identifier technology in airport access control systems (including airport perimeter access control systems) to ensure that the biometric identifier systems are effective, reliable, and secure;

(B) a list of products and vendors that meet the requirements and standards set forth in subparagraph (A);

(C) procedures for implementing biometric identifier systems—

(i) to ensure that individuals do not use an assumed identity to enroll in a biometric identifier system; and

(ii) to resolve failures to enroll, false matches, and false non-matches; and

(D) best practices for incorporating biometric identifier technology into airport access control systems in the most effective manner, including a process to best utilize existing airport access control systems, facilities, and equipment and existing data networks connecting airports.

(6) USE OF BIOMETRIC TECHNOLOGY FOR ARMED LAW ENFORCEMENT TRAVEL.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security, in consultation with the Attorney General, shall—

(i) implement this section[1] by publication in the Federal Register; and

(ii) establish a national registered armed law enforcement program, that shall be federally managed, for law enforcement officers needing to be armed when traveling by commercial aircraft.

(B) PROGRAM REQUIREMENTS.—The program shall—

(i) establish a credential or a system that incorporates biometric technology and other applicable technologies;

(ii) establish a system for law enforcement officers who need to be armed when traveling by commercial aircraft on a regular basis and for those who need to be armed during temporary travel assignments;

(iii) comply with other uniform credentialing initiatives, including the Homeland Security Presidential Directive 12;

(iv) apply to all Federal, State, local, tribal, and territorial government law enforcement agencies; and

(v) establish a process by which the travel credential or system may be used to verify the identity, using biometric technology, of a Federal, State, local, tribal, or territorial law enforcement officer seeking to carry a weapon on board a commercial aircraft, without unnecessarily disclosing to the public that the individual is a law enforcement officer.

(C) PROCEDURES.—In establishing the program, the Secretary shall develop procedures—

(i) to ensure that a law enforcement officer of a Federal, State, local, tribal, or territorial government flying armed has a specific reason for flying armed and the reason is within the scope of the duties of such officer;

(ii) to preserve the anonymity of the armed law enforcement officer;

(iii) to resolve failures to enroll, false matches, and false nonmatches relating to the use of the law enforcement travel credential or system;

(iv) to determine the method of issuance of the biometric credential to law enforcement officers needing to be armed when traveling by commercial aircraft;

(v) to invalidate any law enforcement travel credential or system that is lost, stolen, or no longer authorized for use;

(vi) to coordinate the program with the Federal Air Marshal Service, including the force multiplier program of the Service; and

(vii) to implement a phased approach to launching the program, addressing the immediate needs of the relevant Federal agent population before expanding to other law enforcement populations.

(7) DEFINITIONS.—In this subsection, the following definitions apply:

(A) BIOMETRIC IDENTIFIER INFORMATION.—The term ''biometric identifier information'' means the distinct physical or behavioral characteristics of an individual that are used for unique identification, or verification of the identity, of an individual.

(B) BIOMETRIC IDENTIFIER.—The term ''biometric identifier'' means a technology that enables the automated identification, or verification of the identity, of an individual based on biometric information.

(C) FAILURE TO ENROLL.—The term ''failure to enroll'' means the inability of an individual to enroll in a biometric identifier system due to an insufficiently distinctive biometric sample, the lack of a body part necessary

[1] So in original. Probably should be ''paragraph''.

to provide the biometric sample, a system design that makes it difficult to provide consistent biometric identifier information, or other factors.

(D) FALSE MATCH.—The term ''false match'' means the incorrect matching of one individual's biometric identifier information to another individual's biometric identifier information by a biometric identifier system.

(E) FALSE NON-MATCH.—The term ''false non-match'' means the rejection of a valid identity by a biometric identifier system.

(F) SECURE AREA OF AN AIRPORT.—The term ''secure area of an airport'' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).

(i) AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.—

(1) IN GENERAL.—If the Under Secretary, after receiving the recommendations of the National Institute of Justice, determines, with the approval of the Attorney General and the Secretary of State, that it is appropriate and necessary and would effectively serve the public interest in avoiding air piracy, the Under Secretary may authorize members of the flight deck crew on any aircraft providing air transportation or intrastate air transportation to carry a less-than-lethal weapon while the aircraft is engaged in providing such transportation.

(2) USAGE.—If the Under Secretary grants authority under paragraph (1) for flight deck crew members to carry a less-than-lethal weapon while engaged in providing air transportation or intrastate air transportation, the Under Secretary shall—

(A) prescribe rules requiring that any such crew member be trained in the proper use of the weapon; and

(B) prescribe guidelines setting forth the circumstances under which such weapons may be used.

(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days.

(j) SHORT-TERM ASSESSMENT AND DEPLOYMENT OF EMERGING SECURITY TECHNOLOGIES AND PROCEDURES.—

(1) IN GENERAL.—The Under Secretary of Transportation for Security shall recommend to airport operators, within 6 months after the date of enactment of the Aviation and Transportation Security Act, commercially available measures or procedures to prevent access to secure airport areas by unauthorized persons. As part of the 6-month assessment, the Under Secretary for Transportation Security shall—

(A) review the effectiveness of biometrics systems currently in use at several United States airports, including San Francisco International;

(B) review the effectiveness of increased surveillance at access points;

(C) review the effectiveness of card- or keypad-based access systems;

(D) review the effectiveness of airport emergency exit systems and determine whether those that lead to secure areas of the airport should be monitored or how breaches can be swiftly responded to; and

(E) specifically target the elimination of the ''piggy-backing'' phenomenon, where another person follows an authorized person through the access point.

The 6-month assessment shall include a 12-month deployment strategy for currently available technology at all category X airports, as defined in the Federal Aviation Administration approved air carrier security programs required under part 108 of title 14, Code of Federal Regulations. Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall conduct a review of reductions in unauthorized access at these airports.

(2) COMPUTER-ASSISTED PASSENGER PRESCREENING SYSTEM.—

(A) IN GENERAL.—The Secretary of Transportation shall ensure that the Computer-Assisted Passenger Prescreening System, or any successor system—

(i) is used to evaluate all passengers before they board an aircraft; and

(ii) includes procedures to ensure that individuals selected by the system and their carry-on and checked baggage are adequately screened.

(B) MODIFICATIONS.—The Secretary of Transportation may modify any requirement under the Computer-Assisted Passenger Prescreening System for flights that originate and terminate within the same State, if the Secretary determines that—

(i) the State has extraordinary air transportation needs or concerns due to its isolation and dependence on air transportation; and

(ii) the routine characteristics of passengers, given the nature of the market, regularly triggers primary selectee status.

(C) ADVANCED AIRLINE PASSENGER PRESCREENING.—

(i) COMMENCEMENT OF TESTING.—Not later than January 1, 2005, the Assistant Secretary of Homeland Security (Transportation Security Administration), or the designee of the Assistant Secretary, shall commence testing of an advanced passenger prescreening system that will allow the Department of Homeland Security to assume the performance of comparing passenger information, as defined by the Assistant Secretary, to the automatic selectee and no fly lists, utilizing all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government.

(ii) ASSUMPTION OF FUNCTION.—Not later than 180 days after completion of testing

under clause (i), the Assistant Secretary, or the designee of the Assistant Secretary, shall begin to assume the performance of the passenger prescreening function of comparing passenger information to the automatic selectee and no fly lists and utilize all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government in performing that function.

(iii) REQUIREMENTS.—In assuming performance of the function under clause (ii), the Assistant Secretary shall—

(I) establish a procedure to enable airline passengers, who are delayed or prohibited from boarding a flight because the advanced passenger prescreening system determined that they might pose a security threat, to appeal such determination and correct information contained in the system;

(II) ensure that Federal Government databases that will be used to establish the identity of a passenger under the system will not produce a large number of false positives;

(III) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented;

(IV) establish sufficient operational safeguards to reduce the opportunities for abuse;

(V) implement substantial security measures to protect the system from unauthorized access;

(VI) adopt policies establishing effective oversight of the use and operation of the system; and

(VII) ensure that there are no specific privacy concerns with the technological architecture of the system.

(iv) PASSENGER INFORMATION.—Not later than 180 days after the completion of the testing of the advanced passenger prescreening system, the Assistant Secretary, by order or interim final rule—

(I) shall require air carriers to supply to the Assistant Secretary the passenger information needed to begin implementing the advanced passenger prescreening system; and

(II) shall require entities that provide systems and services to air carriers in the operation of air carrier reservations systems to provide to air carriers passenger information in possession of such entities, but only to the extent necessary to comply with subclause (I).

(D) SCREENING OF EMPLOYEES AGAINST WATCHLIST.—The Assistant Secretary of Homeland Security (Transportation Security Administration), in coordination with the Secretary of Transportation and the Administrator of the Federal Aviation Administration, shall ensure that individuals are screened against all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government before—

(i) being certificated by the Federal Aviation Administration;

(ii) being granted unescorted access to the secure area of an airport; or

(iii) being granted unescorted access to the air operations area (as defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section) of an airport.

(E) AIRCRAFT CHARTER CUSTOMER AND LESSEE PRESCREENING.—

(i) IN GENERAL.—Not later than 90 days after the date on which the Assistant Secretary assumes the performance of the advanced passenger prescreening function under subparagraph (C)(ii), the Assistant Secretary shall establish a process by which operators of aircraft to be used in charter air transportation with a maximum takeoff weight greater than 12,500 pounds and lessors of aircraft with a maximum takeoff weight greater than 12,500 pounds may—

(I) request the Department of Homeland Security to use the advanced passenger prescreening system to compare information about any individual seeking to charter an aircraft with a maximum takeoff weight greater than 12,500 pounds, any passenger proposed to be transported aboard such aircraft, and any individual seeking to lease an aircraft with a maximum takeoff weight greater than 12,500 pounds to the automatic selectee and no fly lists, utilizing all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government; and

(II) refuse to charter or lease an aircraft with a maximum takeoff weight greater than 12,500 pounds to or transport aboard such aircraft any persons identified on such watch list.

(ii) REQUIREMENTS.—The requirements of subparagraph (C)(iii) shall apply to this subparagraph.

(iii) NO FLY AND AUTOMATIC SELECTEE LISTS.—The Secretary of Homeland Security, in consultation with the Terrorist Screening Center, shall design and review, as necessary, guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the no fly and automatic selectee lists.

(F) APPLICABILITY.—Section 607 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 44903 note; 117 Stat. 2568) shall not apply to the advanced passenger prescreening system established under subparagraph (C).

(G) APPEAL PROCEDURES.—

(i) IN GENERAL.—The Assistant Secretary shall establish a timely and fair process for individuals identified as a threat under one or more of subparagraphs (C), (D), and (E) to appeal to the Transportation Security Administration the determination and correct any erroneous information.

(ii) RECORDS.—The process shall include the establishment of a method by which the Assistant Secretary will be able to maintain a record of air passengers and other individuals who have been misidentified and have corrected erroneous information. To prevent repeated delays of misidentified passengers and other individuals, the Transportation Security Administration record shall contain information determined by the Assistant Secretary to authenticate the identity of such a passenger or individual.

(H) DEFINITION.—In this paragraph, the term ''secure area of an airport'' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).

(k) LIMITATION ON LIABILITY FOR ACTS TO THWART CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.—An individual shall not be liable for damages in any action brought in a Federal or State court arising out of the acts of the individual in attempting to thwart an act of criminal violence or piracy on an aircraft if that individual reasonably believed that such an act of criminal violence or piracy was occurring or was about to occur.

(*l*) AIR CHARTER PROGRAM.—

(1) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall implement an aviation security program for charter air carriers (as defined in section 40102(a)) with a maximum certificated takeoff weight of more than 12,500 pounds.

(2) EXEMPTION FOR ARMED FORCES CHARTERS.—

(A) IN GENERAL.—Paragraph (1) and the other requirements of this chapter do not apply to passengers and property carried by aircraft when employed to provide charter transportation to members of the armed forces.

(B) SECURITY PROCEDURES.—The Secretary of Defense, in consultation with the Secretary of Homeland Security and the Secretary of Transportation, shall establish security procedures relating to the operation of aircraft when employed to provide charter transportation to members of the armed forces to or from an airport described in section 44903(c).

(C) ARMED FORCES DEFINED.—In this paragraph, the term ''armed forces'' has the meaning given that term by section 101(a)(4) of title 10.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1205; Pub. L. 106–181, title VII, § 717, Apr. 5, 2000, 114 Stat. 163; Pub. L. 106–528, §§ 4, 6, Nov. 22, 2000, 114 Stat. 2520, 2521; Pub. L. 107–71, title I, §§ 101(f)(7)–(9), 106(a), (c), (d), 120, 126(b), 136, 144, Nov. 19, 2001, 115 Stat. 603, 608–610, 629, 632, 636, 644; Pub. L. 107–296, title XIV, §§ 1405, 1406, Nov. 25, 2002, 116 Stat. 2307; Pub. L. 108–176, title VI, § 606(a), Dec. 12, 2003, 117 Stat. 2568; Pub. L. 108–458, title IV, §§ 4011(a), 4012(a)(1), Dec. 17, 2004, 118 Stat. 3712, 3714; Pub. L. 110–53, title XVI, § 1615(a), Aug. 3, 2007, 121 Stat. 486.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44903(a)	49 App.:1357(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(a), (b), (e)(2), (3), (f); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 415, 417.
44903(b)	49 App.:1357(a).	
44903(c)(1) ..	49 App.:1357(b).	
44903(c)(2) ..	49 App.:1357(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(g); added Aug. 15, 1990, Pub. L. 101–370, § 2, 104 Stat. 451.
44903(d)	49 App.:1356b.	Aug. 8, 1985, Pub. L. 99–83, § 553(b), 99 Stat. 226.
44903(e)	49 App.:1357(e)(2), (3).	

In this section, the word ''passengers'' is substituted for ''persons'' for consistency in the revised title.

In subsection (a)(2), the words ''the degree of'' are substituted for ''such'' for clarity.

In subsection (b), before clause (1), the word ''rules'' is omitted as being synonymous with ''regulations''. The words ''such reasonable . . . requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary'' are omitted as surplus. The word ''air'' after ''intrastate'' is added for clarity and consistency. The words ''and amending'' are omitted as surplus. In clause (1), the words ''the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities'' are substituted for ''such other Federal, State, and local agencies'' for consistency in the revised title and with other titles of the United States Code. The words ''as he may deem appropriate'' are omitted as surplus. In clause (2)(A), the words ''in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy'' are omitted as surplus. In clause (3), before subclause (A), the words ''inspection'' and ''in air transportation and intrastate air transportation'' are omitted as surplus. In subclause (B), the words ''that they will receive'' and ''any air transportation security program established under'' are omitted as surplus. In clause (4), the words ''contribute to . . . the purposes of'' are omitted as surplus.

In subsection (c)(1), the words ''traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy'' and ''whose services are made available by their employers'' are omitted as surplus. The words ''department, agency, or instrumentality of the Government'' are substituted for ''Federal department or agency'' for consistency in the revised title and with other titles of the Code. The word ''When'' is substituted for ''In any case in which'' to eliminate unnecessary words. The words ''receipt of'', ''by order'', ''the services of'', ''directly'', and ''at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary'' are omitted as surplus. The words ''When deciding whether additional personnel are needed'' are substituted for ''In making the determination referred to in the preceding sentence'' for clarity.

In subsection (c)(2)(A), before clause (i), the words ''under this section'' are omitted as surplus. The words ''or an amendment in an existing program'' are substituted for ''and may approve an amendment to a security program of an airport operator approved by the Administrator under subsection (b)'' to eliminate unnecessary words. In clause (ii), the word ''monetary'' is substituted for ''financial'' for consistency.

In subsection (e), the words ''Notwithstanding any other provisions of law'', ''the commission of'', ''considered'', and ''the moment when'' before ''such door'' are omitted as surplus. The words ''to allow passengers to leave'' are substituted for ''disembarkation'', and the words ''the aircraft'' are added, for clarity. The words ''departments, agencies, and instrumentalities of the Government'' are substituted for ''Federal departments

and agencies'' for consistency in the revised title and with other titles of the Code. The words ''as may be . . . the purposes of'' are omitted as surplus.

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of enactment of this subsection, referred to in subsec. (h)(4)(A), is the date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

The date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, referred to in subsec. (h)(6)(A), is the date of enactment of Pub. L. 110–53, which was approved Aug. 3, 2007.

The date of enactment of this paragraph, referred to in subsec. (i)(3), is the date of enactment of Pub. L. 107–296, which was approved Nov. 25, 2002.

The date of enactment of the Aviation and Transportation Security Act, referred to in subsec. (j)(1), is the date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

The date of enactment of this Act, referred to in subsec. (j)(1), probably means the date of enactment of Pub. L. 107–71, which enacted subsec. (j), originally (i), of this section and which was approved Nov. 19, 2001.

Section 607 of the Vision 100—Century of Aviation Reauthorization Act, referred to in subsec. (j)(2)(F), is section 607 of Pub. L. 108–176, which is set out as a note below.

AMENDMENTS

2007—Subsec. (h)(6). Pub. L. 110–53 amended par. (6) generally. Prior to amendment, par. (6) related to establishment of a uniform law enforcement officer travel credential incorporating biometric identifier technology not later than 120 days after Dec. 17, 2004.

2004—Subsec. (h)(4)(E). Pub. L. 108–458, § 4011(a)(1), substituted ''shall issue, not later than March 31, 2005, guidance for'' for ''may provide for''.

Subsec. (h)(5) to (7). Pub. L. 108–458, § 4011(a)(2), added pars. (5) to (7).

Subsec. (j)(2)(C) to (H). Pub. L. 108–458, § 4012(a)(1), added subpars. (C) to (H).

2003—Subsec. (*l*). Pub. L. 108–176 added subsec. (*l*).

2002—Subsec. (h). Pub. L. 107–296, § 1406(3), redesignated subsec. (h), relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as (k).

Pub. L. 107–296, § 1406(2), redesignated subsec. (h), relating to authority to arm flight deck crews with less-than-lethal weapons, as (i).

Subsec. (i). Pub. L. 107–296, § 1406(2), redesignated subsec. (h), relating to authority to arm flight deck crews with less-than-lethal weapons, as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 107–296, § 1405(b)(1), substituted ''If the Under Secretary'' for ''If the Secretary'' and ''the Under Secretary may'' for ''the Secretary may''.

Subsec. (i)(2). Pub. L. 107–296, § 1405(b)(2), substituted ''Under Secretary'' for ''Secretary'' in two places in introductory provisions.

Subsec. (i)(3). Pub. L. 107–296, § 1405(a), added par. (3).

Subsec. (j). Pub. L. 107–296, § 1406(1), redesignated subsec. (i) as (j).

Subsec. (k). Pub. L. 107–296, § 1406(3), redesignated subsec. (h), relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as (k).

2001—Subsec. (a)(2). Pub. L. 107–71, § 101(f)(7), (9), substituted ''Under Secretary of Transportation for Security'' for ''Administrator of the Federal Aviation Administration''.

Subsec. (b). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in two places in introductory provisions.

Subsec. (c)(1), (2)(A), (B). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' wherever appearing.

Subsec. (c)(2)(C). Pub. L. 107–71, § 120, amended heading and text of subpar. (C) generally, substituting provisions relating to maximum use of chemical and biological weapon detection equipment for provisions relating to a manual process at explosive detection locations for randomly selecting additional checked bags for screening.

Subsec. (c)(3). Pub. L. 107–71, § 106(d), added par. (3).

Subsecs. (e), (f), (g)(1)(A), (B). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' wherever appearing.

Subsec. (g)(2). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in introductory provisions.

Subsec. (g)(2)(A). Pub. L. 107–71, § 106(c)(1), substituted ''weaknesses;'' for ''weaknesses by January 31, 2001;''.

Subsec. (g)(2)(D). Pub. L. 107–71, § 106(c)(2), added subpar. (D) and struck out former subpar. (D) which read as follows: ''assess and test for compliance with access control requirements, report findings, and assess penalties or take other appropriate enforcement actions when noncompliance is found;''.

Subsec. (g)(2)(C). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

Subsec. (g)(2)(E). Pub. L. 107–71, § 101(f)(8), substituted ''Under Secretary's'' for ''Administrator's''.

Subsec. (g)(2)(F). Pub. L. 107–71, §§ 101(f)(8), 106(c)(3), substituted ''Under Secretary's'' for ''Administrator's'' and ''program;'' for ''program by January 31, 2001;''.

Subsec. (g)(2)(G). Pub. L. 107–71, § 106(c)(4), added subpar. (G) and struck out former subpar. (G) which read as follows: ''require airport operators and air carriers to strengthen access control points in secured areas (including air traffic control operations areas) to ensure the security of passengers and aircraft by January 31, 2001.''

Subsec. (h). Pub. L. 107–71, § 144, which directed that subsec. (h) relating to limitation on liability for acts to thwart criminal violence or aircraft piracy be added at end of section 44903, without specifying the Code title to be amended, was executed by making the addition at the end of this section, to reflect the probable intent of Congress.

Pub. L. 107–71, § 126(b), added subsec. (h) relating to authority to arm flight deck crews with less-than-lethal weapons.

Pub. L. 107–71, § 106(a), added subsec. (h) relating to improved airport perimeter access security.

Subsec. (i). Pub. L. 107–71, § 136, added subsec. (i).

2000—Subsec. (c)(2)(C). Pub. L. 106–528, § 6, added subpar. (C).

Subsec. (f). Pub. L. 106–181 added subsec. (f).

Subsec. (g). Pub. L. 106–528, § 4, added subsec. (g).

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.

EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106–528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106–528, set out as a note under section 106 of this title.

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including

the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

STRATEGIC PLAN TO TEST AND IMPLEMENT ADVANCED PASSENGER PRESCREENING SYSTEM

Pub. L. 110–53, title XVI, § 1605, Aug. 3, 2007, 121 Stat. 481, provided that:

''(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act [Aug. 3, 2007], the Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a plan that—

''(1) describes the system to be utilized by the Department of Homeland Security to assume the performance of comparing passenger information, as defined by the Administrator, to the automatic selectee and no-fly lists, utilizing appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government;

''(2) provides a projected timeline for each phase of testing and implementation of the system;

''(3) explains how the system will be integrated with the prescreening system for passengers on international flights; and

''(4) describes how the system complies with section 552a of title 5, United States Code.

''(b) GAO ASSESSMENT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives that—

''(1) describes the progress made by the Transportation Security Administration in implementing the secure flight passenger pre-screening program;

''(2) describes the effectiveness of the current appeals process for passengers wrongly assigned to the no-fly and terrorist watch lists;

''(3) describes the Transportation Security Administration's plan to protect private passenger information and progress made in integrating the system with the pre-screening program for international flights operated by United States Customs and Border Protection;

''(4) provides a realistic determination of when the system will be completed; and

''(5) includes any other relevant observations or recommendations the Comptroller General deems appropriate.''

PILOT PROJECT TO TEST DIFFERENT TECHNOLOGIES AT AIRPORT EXIT LANES

Pub. L. 110–53, title XVI, § 1613, Aug. 3, 2007, 121 Stat. 485, provided that:

''(a) IN GENERAL.—The Administrator of the Transportation Security Administration shall conduct a pilot program at not more than 2 airports to identify technologies to improve security at airport exit lanes.

''(b) PROGRAM COMPONENTS.—In conducting the pilot program under this section, the Administrator shall—

''(1) utilize different technologies that protect the integrity of the airport exit lanes from unauthorized entry;

''(2) work with airport officials to deploy such technologies in multiple configurations at a selected airport or airports at which some of the exits are not co-located with a screening checkpoint; and

''(3) ensure the level of security is at or above the level of existing security at the airport or airports where the pilot program is conducted.

''(c) REPORTS.—

''(1) INITIAL BRIEFING.—Not later than 180 days after the date of enactment of this Act [Aug. 3, 2007], the Administrator shall conduct a briefing to the congressional committees set forth in paragraph (3) that describes—

''(A) the airport or airports selected to participate in the pilot program;

''(B) the technologies to be tested;

''(C) the potential savings from implementing the technologies at selected airport exits;

''(D) the types of configurations expected to be deployed at such airports; and

''(E) the expected financial contribution from each airport.

''(2) FINAL REPORT.—Not later than 18 months after the technologies are deployed at the airports participating in the pilot program, the Administrator shall submit a final report to the congressional committees set forth in paragraph (3) that describes—

''(A) the changes in security procedures and technologies deployed;

''(B) the estimated cost savings at the airport or airports that participated in the pilot program; and

''(C) the efficacy and staffing benefits of the pilot program and its applicability to other airports in the United States.

''(3) CONGRESSIONAL COMMITTEES.—The reports required under this subsection shall be submitted to—

''(A) the Committee on Commerce, Science, and Transportation of the Senate;

''(B) the Committee on Appropriations of the Senate;

''(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(D) the Committee on Homeland Security of the House of Representatives; and

''(E) the Committee on Appropriations of the House of Representatives.

''(d) USE OF EXISTING FUNDS.—This section shall be executed using existing funds.''

SECURITY CREDENTIALS FOR AIRLINE CREWS

Pub. L. 110–53, title XVI, § 1614, Aug. 3, 2007, 121 Stat. 486, provided that:

''(a) REPORT.—Not later than 180 days after the date of enactment of this Act [Aug. 3, 2007], the Administrator of the Transportation Security Administration, after consultation with airline, airport, and flight crew representatives, shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the Administration's efforts to institute a sterile area access system or method that will enhance security by properly identifying authorized airline flight deck and cabin crew members at screening checkpoints and granting them expedited access through screening checkpoints. The Administrator shall include in the report recommendations on the feasibility of implementing the system for the domestic aviation industry beginning 1 year after the date on which the report is submitted.

''(b) BEGINNING IMPLEMENTATION.—The Administrator shall begin implementation of the system or method referred to in subsection (a) not later than 1 year after the date on which the Administrator submits the report under subsection (a).''

CAPPS2

Pub. L. 108–176, title VI, § 607, Dec. 12, 2003, 117 Stat. 2568, provided that:

''(a) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall not implement, on other than a test basis, the computer assisted passenger pre-

screening system (commonly known as and in this section referred to as 'CAPPS2') until the Under Secretary provides to Congress a certification that—

''(1) a procedure is established enabling airline passengers, who are delayed or prohibited from boarding a flight because CAPPS2 determined that they might pose a security threat, to appeal such determination and correct information contained in CAPPS2;

''(2) the error rate of the Government and private data bases that will be used to both establish identity and assign a risk level to a passenger under CAPPS2 will not produce a large number of false positives that will result in a significant number of passengers being mistaken as a security threat;

''(3) the Under Secretary has demonstrated the efficacy and accuracy of all search tools in CAPPS2 and has demonstrated that CAPPS2 can make an accurate predictive assessment of those passengers who would constitute a security threat;

''(4) the Secretary of Homeland Security has established an internal oversight board to oversee and monitor the manner in which CAPPS2 is being implemented;

''(5) the Under Secretary has built in sufficient operational safeguards to reduce the opportunities for abuse;

''(6) substantial security measures are in place to protect CAPPS2 from unauthorized access by hackers or other intruders;

''(7) the Under Secretary has adopted policies establishing effective oversight of the use and operation of the system; and

''(8) there are no specific privacy concerns with the technological architecture of the system.

''(b) GAO REPORT.—Not later than 90 days after the date on which certification is provided under subsection (a), the Comptroller General shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate that assesses the impact of CAPPS2 on the issues listed in subsection (a) and on privacy and civil liberties. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effect of CAPPS2 on privacy, discrimination, and other civil liberties.''

REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES

Pub. L. 108–176, title VIII, § 821, Dec. 12, 2003, 117 Stat. 2594, provided that: ''The Secretary of Homeland Security, subject to the availability of funds (other than amounts in the Aviation Trust Fund) provided for this purpose, shall reimburse air carriers and airports for—

''(1) the screening of catering supplies; and

''(2) checking documents at security checkpoints.''

IMPROVED FLIGHT DECK INTEGRITY MEASURES

Pub. L. 107–71, title I, § 104, Nov. 19, 2001, 115 Stat. 605, provided that:

''(a) IN GENERAL.—As soon as possible after the date of enactment of this Act [Nov. 19, 2001], the Administrator of the Federal Aviation Administration shall—

''(1) issue an order (without regard to the provisions of chapter 5 of title 5, United States Code)—

''(A) prohibiting access to the flight deck of aircraft engaged in passenger air transportation or intrastate air transportation that are required to have a door between the passenger and pilot compartments under title 14, Code of Federal Regulations, except to authorized persons;

''(B) requiring the strengthening of the flight deck door and locks on any such aircraft operating in air transportation or intrastate air transportation that has a rigid door in a bulkhead between the flight deck and the passenger area to ensure that the door cannot be forced open from the passenger compartment;

''(C) requiring that such flight deck doors remain locked while any such aircraft is in flight except when necessary to permit access and egress by authorized persons; and

''(D) prohibiting the possession of a key to any such flight deck door by any member of the flight crew who is not assigned to the flight deck; and

''(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the aircraft.

''(b) IMPLEMENTATION OF OTHER METHODS.—As soon as possible after such date of enactment [Nov. 19, 2001], the Administrator of the Federal Aviation Administration may develop and implement methods—

''(1) to use video monitors or other devices to alert pilots in the flight deck to activity in the cabin, except that the use of such monitors or devices shall be subject to nondisclosure requirements applicable to cockpit video recordings under section 1114(c) [of title 49];

''(2) to ensure continuous operation of an aircraft transponder in the event of an emergency; and

''(3) to revise the procedures by which cabin crews of aircraft can notify flight deck crews of security breaches and other emergencies, including providing for the installation of switches or other devices or methods in an aircraft cabin to enable flight crews to discreetly notify the pilots in the case of a security breach occurring in the cabin.

''(c) COMMUTER AIRCRAFT.—The Administrator shall investigate means of securing the flight deck of scheduled passenger aircraft operating in air transportation or intrastate air transportation that do not have a rigid fixed door with a lock between the passenger compartment and the flight deck and issue such an order as the Administrator deems appropriate to ensure the inaccessibility, to the greatest extent feasible, of the flight deck while the aircraft is so operating, taking into consideration such aircraft operating in regions where there is minimal threat to aviation security or national security.''

SMALL AND MEDIUM AIRPORTS

Pub. L. 107–71, title I, § 106(b), Nov. 19, 2001, 115 Stat. 609, provided that:

''(1) TECHNICAL SUPPORT AND FINANCIAL ASSISTANCE.—The Under Secretary of Transportation for Security shall develop a plan to—

''(A) provide technical support to airports, each of which had less than 1 percent of the total annual enplanements in the United States for the most recent calendar year for which data is available, to enhance security operations; and

''(B) provide financial assistance to those airports to defray the costs of enhancing security.

''(2) REMOVAL OF CERTAIN RESTRICTIONS.—

''(A) CERTIFICATION BY OPERATOR.—If the operator of an airport described in paragraph (1), after consultation with the appropriate State and local law enforcement authorities, determines that safeguards are in place to sufficiently protect public safety, and so certifies in writing to the Under Secretary, then any security rule, order, or other directive restricting the parking of passenger vehicles shall not apply at that airport after the applicable time period specified in subparagraph (B), unless the Under Secretary, taking into account individual airport circumstances, notifies the airport operator that the safeguards in place do not adequately respond to specific security risks and that the restriction must be continued in order to ensure public safety.

''(B) COUNTERMAND PERIOD.—The time period within which the Secretary may notify an airport operator, after receiving a certification under subparagraph (A), that a restriction must be continued in order to ensure public safety at the airport is—

''(i) 15 days for a nonhub airport (as defined in section 41714(h) of title 49, United States Code);

''(ii) 30 days for a small hub airport (as defined in such section);

''(iii) 60 days for a medium hub airport (as defined in such section); and

''(iv) 120 days for an airport that had at least 1 percent of the total annual enplanements in the United States for the most recent calendar year for which data is available.''

AIRPORT SECURITY AWARENESS PROGRAMS

Pub. L. 107–71, title I, § 106(e), Nov. 19, 2001, 115 Stat. 610, provided that: ''The Under Secretary of Transportation for Security shall require scheduled passenger air carriers, and airports in the United States described in section 44903(c) [of title 49] to develop security awareness programs for airport employees, ground crews, gate, ticket, and curbside agents of the air carriers, and other individuals employed at such airports.''

AIRLINE COMPUTER RESERVATION SYSTEMS

Pub. L. 107–71, title I, § 117, Nov. 19, 2001, 115 Stat. 624, provided that: ''In order to ensure that all airline computer reservation systems maintained by United States air carriers are secure from unauthorized access by persons seeking information on reservations, passenger manifests, or other nonpublic information, the Secretary of Transportation shall require all such air carriers to utilize to the maximum extent practicable the best technology available to secure their computer reservation system against such unauthorized access.''

AUTHORIZATION OF FUNDS FOR REIMBURSEMENT OF AIRPORTS FOR SECURITY MANDATES

Pub. L. 107–71, title I, § 121, Nov. 19, 2001, 115 Stat. 630, provided that:

''(a) AIRPORT SECURITY.—There is authorized to be appropriated to the Secretary of Transportation for fiscal years 2002 and 2003 a total of $1,500,000,000 to reimburse airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers for direct costs incurred by such operators to comply with new, additional, or revised security requirements imposed on such operators by the Federal Aviation Administration or Transportation Security Administration on or after September 11, 2001. Such sums shall remain available until expended.

''(b) DOCUMENTATION OF COSTS; AUDIT.—The Secretary may not reimburse an airport operator, on-airport parking lot, or vendor of on-airfield direct services to air carriers under this section for any cost for which the airport operator, on-airport parking lot, or vendor of on-airfield direct services does not demonstrate to the satisfaction of the Secretary, using sworn financial statements or other appropriate data, that—

''(1) the cost is eligible for reimbursement under subsection (a); and

''(2) the cost was incurred by the airport operator, on-airport parking lot, or vendor of on-airfield direct services to air carriers.

The Inspector General of the Department of Transportation and the Comptroller General of the United States may audit such statements and may request any other information necessary to conduct such an audit.

''(c) CLAIM PROCEDURE.—Within 30 days after the date of enactment of this Act [Nov. 19, 2001], the Secretary, after consultation with airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers, shall publish in the Federal Register the procedures for filing claims for reimbursement under this section of eligible costs incurred by airport operators.''

FLIGHT DECK SECURITY

Pub. L. 107–71, title I, § 128, Nov. 19, 2001, 115 Stat. 633, which authorized the pilot of a passenger aircraft to carry a firearm into the cockpit if approved by the Under Secretary of Transportation for Security and the air carrier, if the firearm is approved by the Under Secretary, and if the pilot has received proper training, was repealed by Pub. L. 107–296, title XIV, § 1402(b)(2), Nov. 25, 2002, 116 Stat. 2305.

CHARTER AIR CARRIERS

Pub. L. 107–71, title I, § 132(a), Nov. 19, 2001, 115 Stat. 635, which provided that within 90 days after Nov. 19, 2001, the Under Secretary of Transportation for Security was to implement an aviation security program for charter air carriers with a maximum certificated takeoff weight of 12,500 pounds or more, was repealed by Pub. L. 108–176, title VI, § 606(b), Dec. 12, 2003, 117 Stat. 2568.

PHYSICAL SECURITY FOR ATC FACILITIES

Pub. L. 106–528, § 5, Nov. 22, 2000, 114 Stat. 2521, provided that:

''(a) IN GENERAL.—In order to ensure physical security at Federal Aviation Administration staffed facilities that house air traffic control systems, the Administrator of the Federal Aviation Administration shall act immediately to—

''(1) correct physical security weaknesses at air traffic control facilities so the facilities can be granted physical security accreditation not later than April 30, 2004; and

''(2) ensure that follow-up inspections are conducted, deficiencies are promptly corrected, and accreditation is kept current for all air traffic control facilities.

''(b) REPORTS.—Not later than April 30, 2001, and annually thereafter through April 30, 2004, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress being made in improving the physical security of air traffic control facilities, including the percentage of such facilities that have been granted physical security accreditation.''

DEPUTIZING OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS

Pub. L. 106–181, title V, § 512, Apr. 5, 2000, 114 Stat. 142, provided that:

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) AIRCRAFT.—The term 'aircraft' has the meaning given that term in section 40102 of title 49, United States Code.

''(2) AIR TRANSPORTATION.—The term 'air transportation' has the meaning given that term in such section.

''(3) PROGRAM.—The term 'program' means the program established under subsection (b)(1)(A).

''(b) ESTABLISHMENT OF A PROGRAM TO DEPUTIZE LOCAL LAW ENFORCEMENT OFFICERS.—

''(1) IN GENERAL.—The Attorney General may—

''(A) establish a program under which the Attorney General may deputize State and local law enforcement officers having jurisdiction over airports and airport authorities as Deputy United States Marshals for the limited purpose of enforcing Federal laws that regulate security on board aircraft, including laws relating to violent, abusive, or disruptive behavior by passengers in air transportation; and

''(B) encourage the participation of law enforcement officers of State and local governments in the program.

''(2) CONSULTATION.—In establishing the program, the Attorney General shall consult with appropriate officials of—

''(A) the United States Government (including the Administrator [of the Federal Aviation Administration] or a designated representative of the Administrator); and

''(B) State and local governments in any geographic area in which the program may operate.

''(3) TRAINING AND BACKGROUND OF LAW ENFORCEMENT OFFICERS.—

''(A) IN GENERAL.—Under the program, to qualify to serve as a Deputy United States Marshal under

the program, a State or local law enforcement officer shall—

''(i) meet the minimum background and training requirements for a law enforcement officer under part 107 of title 14, Code of Federal Regulations (or equivalent requirements established by the Attorney General); and

''(ii) receive approval to participate in the program from the State or local law enforcement agency that is the employer of that law enforcement officer.

''(B) TRAINING NOT FEDERAL RESPONSIBILITY.—The United States Government shall not be responsible for providing to a State or local law enforcement officer the training required to meet the training requirements under subparagraph (A)(i). Nothing in this subsection may be construed to grant any such law enforcement officer the right to attend any institution of the United States Government established to provide training to law enforcement officers of the United States Government.

''(c) POWERS AND STATUS OF DEPUTIZED LAW ENFORCEMENT OFFICERS.—

''(1) IN GENERAL.—Subject to paragraph (2), a State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program may arrest and apprehend an individual suspected of violating any Federal law described in subsection (b)(1)(A), including any individual who violates a provision subject to a civil penalty under section 46301 of title 49, United States Code, or section 46302, 46303, 46318, 46504, 46505, or 46507 of that title, or who commits an act described in section 46506 of that title.

''(2) LIMITATION.—The powers granted to a State or local law enforcement officer deputized under the program shall be limited to enforcing Federal laws relating to security on board aircraft in flight.

''(3) STATUS.—A State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program shall not—

''(A) be considered to be an employee of the United States Government; or

''(B) receive compensation from the United States Government by reason of service as a Deputy United States Marshal under the program.

''(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to—

''(1) grant a State or local law enforcement officer that is deputized under the program the power to enforce any Federal law that is not described in subsection (c); or

''(2) limit the authority that a State or local law enforcement officer may otherwise exercise in the officer's capacity under any other applicable State or Federal law.

''(e) REGULATIONS.—The Attorney General may promulgate such regulations as may be necessary to carry out this section.

''(f) NOTIFICATION OF CONGRESS.—Not later than 90 days after the date of the enactment of this Act [Apr. 5, 2000], the Attorney General shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on whether or not the Attorney General intends to establish the program authorized by this section.''

DEVELOPMENT OF AVIATION SECURITY LIAISON AGREEMENT

Pub. L. 104–264, title III, § 309, Oct. 9, 1996, 110 Stat. 3253, provided that: ''The Secretary of Transportation and the Attorney General, acting through the Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation, shall enter into an interagency agreement providing for the establishment of an aviation security liaison at existing appropriate Federal agencies' field offices in or near cities served by a designated high-risk airport.''

DEFINITIONS OF TERMS IN PUB. L. 107–71

For definitions of terms used in sections 104, 106(b), (e), 117, 121, 128, and 132(a) of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.

§ 44904. Domestic air transportation system security

(a) ASSESSING THREATS.—The Under Secretary of Transportation for Security and the Director of the Federal Bureau of Investigation jointly shall assess current and potential threats to the domestic air transportation system. The assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against that system and the ways in which those individuals might carry out those acts. The Under Secretary and the Director jointly shall decide on and carry out the most effective method for continuous analysis and monitoring of security threats to that system.

(b) ASSESSING SECURITY.—In coordination with the Director, the Under Secretary shall carry out periodic threat and vulnerability assessments on security at each airport that is part of the domestic air transportation system. Each assessment shall include consideration of—

(1) the adequacy of security procedures related to the handling and transportation of checked baggage and cargo;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, and cargo;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the Transportation Security Administration, the United States Customs Service, the Immigration and Naturalization Service, and air carriers, and of other law enforcement personnel.

(c) MODAL SECURITY PLAN FOR AVIATION.—In addition to the requirements set forth in subparagraphs (B) through (F) of section 114(t)(3),[1] the modal security plan for aviation prepared under section 114(t)[1] shall—

(1) establish a damage mitigation and recovery plan for the aviation system in the event of a terrorist attack; and

(2) include a threat matrix document that outlines each threat to the United States civil aviation system and the corresponding layers of security in place to address such threat.

(d) OPERATIONAL CRITERIA.—Not later than 90 days after the date of the submission of the National Strategy for Transportation Security under section 114(t)(4)(A),[1] the Assistant Secretary of Homeland Security (Transportation Security Administration) shall issue operational criteria to protect airport infrastructure and operations against the threats identified in the plans prepared under section 114(t)(1)[1] and shall approve best practices guidelines for airport assets.

(e) IMPROVING SECURITY.—The Under Secretary shall take necessary actions to improve domestic air transportation security by correcting any deficiencies in that security discovered in the

[1] See References in Text note below.

assessments, analyses, and monitoring carried out under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1207; Pub. L. 107–71, title I, § 101(f)(1), (7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 108–458, title IV, § 4001(b), Dec. 17, 2004, 118 Stat. 3712.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44904(a)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(a), (b), 104 Stat. 3075.
44904(b)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(c), 104 Stat. 3075.
44904(c)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(e), 104 Stat. 3075.

In subsection (a), the words ''domestic air transportation system'' are substituted for ''domestic aviation system'' for consistency in this section.

In subsection (b), before clause (1), the word ''Director'' is substituted for ''Federal Bureau of Investigation'' because of 28:532. In clauses (1) and (3), the word ''mail'' is omitted as being included in ''cargo''.

In subsection (c), the word ''correcting'' is substituted for ''remedying'' for clarity.

REFERENCES IN TEXT

Section 114(t), referred to in subsecs. (c) and (d), was redesignated section 114(s) by Pub. L. 110–161, div. E, title V, § 568(a), Dec. 26, 2007, 121 Stat. 2092.

AMENDMENTS

2004—Subsecs. (c) to (e). Pub. L. 108–458 added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

2001—Subsec. (a). Pub. L. 107–71, § 101(f)(7), (9), substituted ''Under Secretary'' for ''Administrator'' in two places and ''of Transportation for Security'' for ''of the Federal Aviation Administration''.

Subsec. (b). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in introductory provisions.

Subsec. (b)(5). Pub. L. 107–71, § 101(f)(1), substituted ''the Transportation Security Administration'' for ''the Administration''.

Subsec. (c). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

REGULAR JOINT THREAT ASSESSMENTS

Pub. L. 104–264, title III, § 310, Oct. 9, 1996, 110 Stat. 3253, provided that: ''The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall carry out joint threat and vulnerability assessments on security every 3 years, or more frequently, as necessary, at each airport determined to be high risk.''

§ 44905. Information about threats to civil aviation

(a) PROVIDING INFORMATION.—Under guidelines the Secretary of Transportation prescribes, an air carrier, airport operator, ticket agent, or individual employed by an air carrier, airport operator, or ticket agent, receiving information (except a communication directed by the United States Government) about a threat to civil aviation shall provide the information promptly to the Secretary.

(b) FLIGHT CANCELLATION.—If a decision is made that a particular threat cannot be addressed in a way adequate to ensure, to the extent feasible, the safety of passengers and crew of a particular flight or series of flights, the Under Secretary of Transportation for Security shall cancel the flight or series of flights.

(c) GUIDELINES ON PUBLIC NOTICE.—(1) The President shall develop guidelines for ensuring that public notice is provided in appropriate cases about threats to civil aviation. The guidelines shall identify officials responsible for—

(A) deciding, on a case-by-case basis, if public notice of a threat is in the best interest of the United States and the traveling public;

(B) ensuring that public notice is provided in a timely and effective way, including the use of a toll-free telephone number; and

(C) canceling the departure of a flight or series of flights under subsection (b) of this section.

(2) The guidelines shall provide for consideration of—

(A) the specificity of the threat;

(B) the credibility of intelligence information related to the threat;

(C) the ability to counter the threat effectively;

(D) the protection of intelligence information sources and methods;

(E) cancellation, by an air carrier or the Under Secretary, of a flight or series of flights instead of public notice;

(F) the ability of passengers and crew to take steps to reduce the risk to their safety after receiving public notice of a threat; and

(G) other factors the Under Secretary considers appropriate.

(d) GUIDELINES ON NOTICE TO CREWS.—The Under Secretary shall develop guidelines for ensuring that notice in appropriate cases of threats to the security of an air carrier flight is provided to the flight crew and cabin crew of that flight.

(e) LIMITATION ON NOTICE TO SELECTIVE TRAVELERS.—Notice of a threat to civil aviation may be provided to selective potential travelers only if the threat applies only to those travelers.

(f) RESTRICTING ACCESS TO INFORMATION.—In cooperation with the departments, agencies, and

instrumentalities of the Government that collect, receive, and analyze intelligence information related to aviation security, the Under Secretary shall develop procedures to minimize the number of individuals who have access to information about threats. However, a restriction on access to that information may be imposed only if the restriction does not diminish the ability of the Government to carry out its duties and powers related to aviation security effectively, including providing notice to the public and flight and cabin crews under this section.

(g) DISTRIBUTION OF GUIDELINES.—The guidelines developed under this section shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1207; Pub. L. 107–71, title I, § 101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44905(a)	49 App.:1358d(a).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 321; added Nov. 16, 1990, Pub. L. 101–604, § 109(a), 104 Stat. 3078.
44905(b)	49 App.:1358d(b).	
44905(c)(1) ..	49 App.:1358d(c)(1), (d).	
44905(c)(2) ..	49 App.:1358d(e).	
44905(d)	49 App.:1358d(c)(2).	
44905(e)	49 App.:1358d(f).	
44905(f)	49 App.:1358d(h).	
44905(g)	49 App.:1358d(g).	

In subsection (a), the words ''employed by an air carrier, airport operator, or ticket agent'' are substituted for ''employed by such an entity'' for clarity. The words ''or a designee of the Secretary'' are omitted as unnecessary.

In subsections (c)(1), before clause (A), and (d), the words ''Not later than 180 days after November 16, 1990'' are omitted as obsolete.

In subsection (c)(1)(B), the words ''when considered appropriate'' are omitted as unnecessary because of the restatement.

In subsection (e), the words ''selective potential travelers'' are substituted for ''only selective potential travelers'' to eliminate an unnecessary word.

In subsection (f), the words ''departments, agencies, and instrumentalities of the Government'' are substituted for ''agencies'' for clarity and consistency in the revised title and with other titles of the United States Code. The words ''However, a restriction on access to that information may be imposed only if the restriction does not diminish'' are substituted for ''Any restriction adopted pursuant to this subsection shall not diminish'' for clarity.

AMENDMENTS

2001—Subsec. (b). Pub. L. 107–71, § 101(f)(7), (9), substituted ''Under Secretary of Transportation for Security'' for ''Administrator of the Federal Aviation Administration''.

Subsecs. (c)(2)(E), (G), (d), (f). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44906. Foreign air carrier security programs

The Under Secretary of Transportation for Security shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Under Secretary. The Under Secretary shall not approve a security program of a foreign air carrier under section 129.25, or any successor regulation, unless the security program requires the foreign air carrier in its operations to and from airports in the United States to adhere to the identical security measures that the Under Secretary requires air carriers serving the same airports to adhere to. The foregoing requirement shall not be interpreted to limit the ability of the Under Secretary to impose additional security measures on a foreign air carrier or an air carrier when the Under Secretary determines that a specific threat warrants such additional measures. The Under Secretary shall prescribe regulations to carry out this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1208; Pub. L. 104–132, title III, § 322, Apr. 24, 1996, 110 Stat. 1254; Pub. L. 107–71, title I, § 101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44906(a)(1) ..	49 App.:1357(k)(1)–(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(k)(1)–(3); added Nov. 16, 1990, Pub. L. 101–604, § 105(a), 104 Stat. 3074.
	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 105(c), 104 Stat. 3075.

The text of 49 App.:1357(k)(3) and the words ''Not later than 180 days after the date of enactment of this Act'' in section 105(c) of the Aviation Security Improvement Act of 1990 (Public Law 101–604, 104 Stat. 3075) are omitted as obsolete.

AMENDMENTS

2001—Pub. L. 107–71 substituted ''Under Secretary'' for ''Administrator'' wherever appearing and ''of Transportation for Security'' for ''of the Federal Aviation Administration''.

1996—Pub. L. 104–132 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator may approve a security program of a foreign air carrier under section 129.25 only if the Administrator decides the security program provides passengers of the foreign air carrier a level of protection similar to the level those passengers would receive under the security programs of air carriers serving the same airport. The Administrator shall require a foreign air carrier to use procedures equivalent to those required of air carriers serving the same airport if the Administrator decides that the procedures are necessary to provide a level of protection similar to that provided passengers of the air carriers serving the same airport. The Administrator shall prescribe regulations to carry out this section.''

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44907. Security standards at foreign airports

(a) ASSESSMENT.—(1) At intervals the Secretary of Transportation considers necessary, the Secretary shall assess the effectiveness of the security measures maintained at—

(A) a foreign airport—

(i) served by an air carrier;

(ii) from which a foreign air carrier serves the United States; or

(iii) that poses a high risk of introducing danger to international air travel; and

(B) other foreign airports the Secretary considers appropriate.

(2) The Secretary of Transportation shall conduct an assessment under paragraph (1) of this subsection—

(A) in consultation with appropriate aeronautic authorities of the government of a foreign country concerned and each air carrier serving the foreign airport for which the Secretary is conducting the assessment;

(B) to establish the extent to which a foreign airport effectively maintains and carries out security measures; and

(C) by using a standard that will result in an analysis of the security measures at the airport based at least on the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation in effect on the date of the assessment.

(3) Each report to Congress required under section 44938(b) of this title shall contain a summary of the assessments conducted under this subsection.

(b) CONSULTATION.—In carrying out subsection (a) of this section, the Secretary of Transportation shall consult with the Secretary of State—

(1) on the terrorist threat that exists in each country; and

(2) to establish which foreign airports are not under the de facto control of the government of the foreign country in which they are located and pose a high risk of introducing danger to international air travel.

(c) NOTIFYING FOREIGN AUTHORITIES.—When the Secretary of Transportation, after conducting an assessment under subsection (a) of this section, decides that an airport does not maintain and carry out effective security measures, the Secretary of Transportation, after advising the Secretary of State, shall notify the appropriate authorities of the government of the foreign country of the decision and recommend the steps necessary to bring the security measures in use at the airport up to the standard used by the Secretary of Transportation in making the assessment.

(d) ACTIONS WHEN AIRPORTS NOT MAINTAINING AND CARRYING OUT EFFECTIVE SECURITY MEASURES.—(1) When the Secretary of Transportation decides under this section that an airport does not maintain and carry out effective security measures—

(A) the Secretary of Transportation shall—

(i) publish the identity of the airport in the Federal Register;

(ii) have the identity of the airport posted and displayed prominently at all United States airports at which scheduled air carrier operations are provided regularly; and

(iii) notify the news media of the identity of the airport;

(B) each air carrier and foreign air carrier providing transportation between the United States and the airport shall provide written notice of the decision, on or with the ticket, to each passenger buying a ticket for transportation between the United States and the airport;

(C) notwithstanding section 40105(b) of this title, the Secretary of Transportation, after consulting with the appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the airport and with the approval of the Secretary of State, may withhold, revoke, or prescribe conditions on the operating authority of an air carrier or foreign air carrier that uses that airport to provide foreign air transportation; and

(D) the President may prohibit an air carrier or foreign air carrier from providing transportation between the United States and any other foreign airport that is served by aircraft flying to or from the airport with respect to which a decision is made under this section.

(2)(A) Paragraph (1) of this subsection becomes effective—

(i) 90 days after the government of a foreign country is notified under subsection (c) of this section if the Secretary of Transportation finds that the government has not brought the security measures at the airport up to the standard the Secretary used in making an assessment under subsection (a) of this section; or

(ii) immediately on the decision of the Secretary of Transportation under subsection (c) of this section if the Secretary of Transportation decides, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from the airport.

(B) The Secretary of Transportation immediately shall notify the Secretary of State of a decision under subparagraph (A)(ii) of this paragraph so that the Secretary of State may issue a travel advisory required under section 44908(a) of this title.

(3) The Secretary of Transportation promptly shall submit to Congress a report (and classified annex if necessary) on action taken under paragraph (1) or (2) of this subsection, including information on attempts made to obtain the cooperation of the government of a foreign coun-

try in meeting the standard the Secretary used in assessing the airport under subsection (a) of this section.

(4) An action required under paragraph (1)(A) and (B) of this subsection is no longer required only if the Secretary of Transportation, in consultation with the Secretary of State, decides that effective security measures are maintained and carried out at the airport. The Secretary of Transportation shall notify Congress when the action is no longer required to be taken.

(e) SUSPENSIONS.—Notwithstanding sections 40105(b) and 40106(b) of this title, the Secretary of Transportation, with the approval of the Secretary of State and without notice or a hearing, shall suspend the right of an air carrier or foreign air carrier to provide foreign air transportation, and the right of a person to operate aircraft in foreign air commerce, to or from a foreign airport when the Secretary of Transportation decides that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from that airport; and

(2) the public interest requires an immediate suspension of transportation between the United States and that airport.

(f) CONDITION OF CARRIER AUTHORITY.—This section is a condition to authority the Secretary of Transportation grants under this part to an air carrier or foreign air carrier.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1209.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44907(a)(1) ..	49 App.:1515(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1115(a), (b), (d)–(h); added Aug. 5, 1974, Pub. L. 93–366, § 106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, § 551(a), 99 Stat. 222.
44907(a)(2) ..	49 App.:1515(a)(2), (3).	
44907(a)(3) ..	49 App.:1515(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1115(c); added Aug. 5, 1974, Pub. L. 93–366, § 106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, § 551(a), 99 Stat. 222; Nov. 16, 1990, Pub. L. 101–604, § 102(c)(2), 104 Stat. 3069.
44907(b)	49 App.:1515(b).	
44907(c)	49 App.:1515(d).	
44907(d)(1) ..	49 App.:1515(e)(2).	
44907(d)(2) ..	49 App.:1515(e)(1).	
44907(d)(3) ..	49 App.:1515(e)(3).	
44907(d)(4) ..	49 App.:1515(f).	
44907(e)	49 App.:1515(g).	
44907(f)	49 App.:1515(h).	

In subsections (a)(2)(A) and (d)(2)(A)(i) and (3), the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2)(B), the word ''foreign'' is added for clarity and consistency in this section.

In subsection (b)(2), the word ''foreign'' is added for consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the Code.

In subsection (d)(1), before clause (A), the words ''Subject to paragraph (1)'' are omitted as surplus. In clause (C), the words ''foreign country'' are substituted for ''foreign government'' for clarity and consistency in the revised title and with other titles of the Code. The word ''prescribe'' is substituted for ''impose'' for consistency in the revised title and with other titles of the Code. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title. In clause (D), the words ''directly or indirectly'' are omitted as surplus.

In subsection (d)(2)(A)(i), the words ''identified'' and ''of such airport'' are omitted as surplus.

In subsection (d)(2)(B), the words ''issue a travel advisory required under section 44908(a) of this title'' are substituted for ''comply with the requirement of section 1515(a) [sic] of this Appendix that a travel advisory be issued'' to eliminate unnecessary words.

In subsection (d)(4), the words ''An action required . . . is no longer required'' are substituted for ''The sanctions required to be imposed with respect to an airport . . . may be lifted'' to eliminate unnecessary words.

In subsection (e), before clause (1), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (f), the words ''issued under authority vested in'' are omitted as surplus.

§ 44908. Travel advisory and suspension of foreign assistance

(a) TRAVEL ADVISORIES.—On being notified by the Secretary of Transportation that the Secretary of Transportation has decided under section 44907(d)(2)(A)(ii) of this title that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport that the Secretary of Transportation has decided under section 44907 of this title does not maintain and carry out effective security measures, the Secretary of State—

(1) immediately shall issue a travel advisory for that airport; and

(2) shall publicize the advisory widely.

(b) SUSPENDING ASSISTANCE.—The President shall suspend assistance provided under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.) to a country in which is located an airport with respect to which section 44907(d)(1) of this title becomes effective if the Secretary of State decides the country is a high terrorist threat country. The President may waive this subsection if the President decides, and reports to Congress, that the waiver is required because of national security interests or a humanitarian emergency.

(c) ACTIONS NO LONGER REQUIRED.—An action required under this section is no longer required only if the Secretary of Transportation has made a decision as provided under section 44907(d)(4) of this title. The Secretary shall notify Congress when the action is no longer required to be taken.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1211; Pub. L. 105–277, div. G, subdiv. B, title XXII, § 2224(a), Oct. 21, 1998, 112 Stat. 2681–819.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44908(a)	49 App.:1515a(a).	Aug. 8, 1985, Pub. L. 99–83, § 552, 99 Stat. 226.
44908(b)	49 App.:1515a(b).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44908(c)	49 App.:1515a(c), (d).	

In subsection (a)(3), the words ''take the necessary steps to'' are omitted as surplus.

In subsection (b), the words ''all'' and ''the requirements of'' are omitted as surplus.

Subsection (c) is substituted for 49 App.:1515a(c) and (d) to eliminate unnecessary words.

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§ 2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsec. (b), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 inserted ''and'' at end of par. (1), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: ''shall publish the advisory in the Federal Register; and''.

§ 44909. Passenger manifests

(a) AIR CARRIER REQUIREMENTS.—(1) Not later than March 16, 1991, the Secretary of Transportation shall require each air carrier to provide a passenger manifest for a flight to an appropriate representative of the Secretary of State—

(A) not later than one hour after that carrier is notified of an aviation disaster outside the United States involving that flight; or

(B) if it is not technologically feasible or reasonable to comply with clause (A) of this paragraph, then as expeditiously as possible, but not later than 3 hours after the carrier is so notified.

(2) The passenger manifest should include the following information:

(A) the full name of each passenger.

(B) the passport number of each passenger, if required for travel.

(C) the name and telephone number of a contact for each passenger.

(3) In carrying out this subsection, the Secretary of Transportation shall consider the necessity and feasibility of requiring air carriers to collect passenger manifest information as a condition for passengers boarding a flight of the carrier.

(b) FOREIGN AIR CARRIER REQUIREMENTS.—The Secretary of Transportation shall consider imposing a requirement on foreign air carriers comparable to that imposed on air carriers under subsection (a)(1) and (2) of this section.

(c) FLIGHTS IN FOREIGN AIR TRANSPORTATION TO THE UNITED STATES.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of the Aviation and Transportation Security Act, each air carrier and foreign air carrier operating a passenger flight in foreign air transportation to the United States shall provide to the Commissioner of Customs by electronic transmission a passenger and crew manifest containing the information specified in paragraph (2). Carriers may use the advanced passenger information system established under section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) to provide the information required by the preceding sentence.

(2) INFORMATION.—A passenger and crew manifest for a flight required under paragraph (1) shall contain the following information:

(A) The full name of each passenger and crew member.

(B) The date of birth and citizenship of each passenger and crew member.

(C) The sex of each passenger and crew member.

(D) The passport number and country of issuance of each passenger and crew member if required for travel.

(E) The United States visa number or resident alien card number of each passenger and crew member, as applicable.

(F) Such other information as the Under Secretary, in consultation with the Commissioner of Customs, determines is reasonably necessary to ensure aviation safety.

(3) PASSENGER NAME RECORDS.—The carriers shall make passenger name record information available to the Customs Service upon request.

(4) TRANSMISSION OF MANIFEST.—Subject to paragraphs (5) and (6), a passenger and crew manifest required for a flight under paragraph (1) shall be transmitted to the Customs Service in advance of the aircraft landing in the United States in such manner, time, and form as the Customs Service prescribes.

(5) TRANSMISSION OF MANIFESTS TO OTHER FEDERAL AGENCIES.—Upon request, information provided to the Under Secretary or the Customs Service under this subsection may be shared with other Federal agencies for the purpose of protecting national security.

(6) PRESCREENING INTERNATIONAL PASSENGERS.—

(A) IN GENERAL.—Not later than 60 days after date of enactment of this paragraph, the Secretary of Homeland Security, or the designee of the Secretary, shall issue a notice of proposed rulemaking that will allow the Department of Homeland Security to compare passenger information for any international flight to or from the United States against the consolidated and integrated terrorist watchlist maintained by the Federal Government before departure of the flight.

(B) APPEAL PROCEDURES.—

(i) IN GENERAL.—The Secretary of Homeland Security shall establish a timely and fair process for individuals identified as a threat under subparagraph (A) to appeal to the Department of Homeland Security the determination and correct any erroneous information.

(ii) RECORDS.—The process shall include the establishment of a method by which the Secretary will be able to maintain a record of air passengers and other individ-

uals who have been misidentified and have corrected erroneous information. To prevent repeated delays of misidentified passengers and other individuals, the Department of Homeland Security record shall contain information determined by the Secretary to authenticate the identity of such a passenger or individual.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1211; Pub. L. 106–181, title VII, § 718, Apr. 5, 2000, 114 Stat. 163; Pub. L. 107–71, title I, § 115, Nov. 19, 2001, 115 Stat. 623; Pub. L. 108–458, title IV, § 4012(a)(2), Dec. 17, 2004, 118 Stat. 3717.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44909(a)(1) ..	49 App.:1380(a).	Aug. 23, 1958, Pub. L. 85–726, § 410, 72 Stat. 769; Oct. 15, 1962, Pub. L. 87–820, § 8, 76 Stat. 936; restated Nov. 16, 1990, Pub. L. 101–604, § 203(a), 104 Stat. 3082.
44909(a)(2) ..	49 App.:1380(b).	
44909(a)(3) ..	49 App.:1380 (note).	Nov. 16, 1990, Pub. L. 101–604, § 203(b), 104 Stat. 3082.
44909(b)	49 App.:1380 (note).	Nov. 16, 1990, Pub. L. 101–604, § 203(c), 104 Stat. 3083.

In subsection (a)(1), before clause (A), the words ''each air carrier'' are substituted ''all United States air carriers'' because of the definition of ''air carrier'' in section 40102(a) of the revised title. The words ''an appropriate representative of the Secretary of State'' are substituted for ''appropriate representatives of the United States Department of State'' because of 22:2651 and for consistency in the revised title and with other titles of the United States Code. In clause (B), the words ''to comply with clause (A) of this paragraph'' are substituted for ''to fulfill the requirement of this subsection'' for consistency in the revised title and with other titles of the Code.

In subsection (a)(2), before clause (B), the words ''For purposes of this section'' are omitted as unnecessary.

In subsection (a)(3), the words ''In carrying out this subsection'' are substituted for ''In implementing the requirement pursuant to the amendment made by subsection (a) of this section'' for clarity and to eliminate unnecessary words.

In subsection (b), the word ''imposing'' is added for clarity. The words ''imposed on air carriers under subsection (a)(1) and (2) of this section'' are substituted for ''imposed pursuant to the amendment made by subsection (a)'' for clarity and because of the restatement.

REFERENCES IN TEXT

The date of enactment of the Aviation and Transportation Security Act, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

The date of enactment of this paragraph, referred to in subsec. (c)(6)(A), is the date of enactment of Pub. L. 108–458, which was approved Dec. 17, 2004.

AMENDMENTS

2004—Subsec. (c)(4). Pub. L. 108–458, § 4012(a)(2)(A), substituted ''paragraphs (5) and (6),'' for ''paragraph (5),''.

Subsec. (c)(6). Pub. L. 108–458, § 4012(a)(2)(B), added par. (6).

2001—Subsec. (c). Pub. L. 107–71 which directed the addition of subsec. (c) to section 44909, without specifying the Code title to be amended, was executed by making the addition to this section, to reflect the probable intent of Congress.

2000—Subsec. (a)(2). Pub. L. 106–181 substituted ''should'' for ''shall'' in introductory provisions.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44910. Agreements on aircraft sabotage, aircraft hijacking, and airport security

The Secretary of State shall seek multilateral and bilateral agreement on strengthening enforcement measures and standards for compliance related to aircraft sabotage, aircraft hijacking, and airport security.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44910	49 App.:1515 (note).	Aug. 8, 1985, Pub. L. 99–83, § 556, 99 Stat. 227.

§ 44911. Intelligence

(a) DEFINITION.—In this section, ''intelligence community'' means the intelligence and intelligence-related activities of the following units of the United States Government:

(1) the Department of State.

(2) the Department of Defense.

(3) the Department of the Treasury.

(4) the Department of Energy.

(5) the Departments of the Army, Navy, and Air Force.

(6) the Central Intelligence Agency.

(7) the National Security Agency.

(8) the Defense Intelligence Agency.

(9) the Federal Bureau of Investigation.

(10) the Drug Enforcement Administration.

(b) POLICIES AND PROCEDURES ON REPORT AVAILABILITY.—The head of each unit in the intelligence community shall prescribe policies and procedures to ensure that intelligence reports about terrorism are made available, as appropriate, to the heads of other units in the intelligence community, the Secretary of Transportation, and the Under Secretary of Transportation for Security.

(c) UNIT FOR STRATEGIC PLANNING ON TERRORISM.—The heads of the units in the intelligence community shall place greater emphasis on strategic intelligence efforts by establishing a unit for strategic planning on terrorism.

(d) DESIGNATION OF INTELLIGENCE OFFICER.—At the request of the Secretary, the Director of Central Intelligence shall designate at least one intelligence officer of the Central Intelligence Agency to serve in a senior position in the Office of the Secretary.

(e) WRITTEN WORKING AGREEMENTS.—The heads of units in the intelligence community, the Secretary, and the Under Secretary shall review and, as appropriate, revise written working agreements between the intelligence community and the Under Secretary.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1212; Pub. L. 107–71, title I, §§ 101(f)(7), (9), 102(b), (c), Nov. 19, 2001, 115 Stat. 603, 605.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44911(a)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, § 111(e), 104 Stat. 3080.
44911(b)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, § 111(a), 104 Stat. 3080.
44911(c)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, § 111(b), 104 Stat. 3080.
44911(d)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, § 111(c), 104 Stat. 3080.
44911(e)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, § 111(d), 104 Stat. 3080.

In this section, the word ''units'' is substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (e), the words ''Not later than 180 days after the date of enactment of this Act'' in section 111(a) and (d) of the Aviation Security Improvement Act of 1990 (Public Law 101–640, 104 Stat. 3080) are omitted as obsolete.

In subsection (b), the words ''the heads of other units in the intelligence community, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration'' are substituted for ''other members of the intelligence community, the Department of Transportation, and the Federal Aviation Administration'' for clarity and consistency in the revised title and with other titles of the Code.

In subsections (c) and (e), the words ''heads of units in the intelligence community'' are substituted for ''intelligence community'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (e), the words ''memorandums of understanding'' are omitted as being included in ''written working agreements''.

AMENDMENTS

2001—Subsec. (b). Pub. L. 107–71, § 102(b), struck out ''international'' before ''terrorism''.

Pub. L. 107–71, § 101(f)(7), (9), substituted ''Under Secretary of Transportation for Security'' for ''Administrator of the Federal Aviation Administration''.

Subsec. (c). Pub. L. 107–71, § 102(c), substituted ''place'' for ''consider placing''.

Subsec. (e). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in two places.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44912. Research and development

(a) PROGRAM REQUIREMENT.—(1) The Under Secretary of Transportation for Security 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. The program shall provide for developing and having in place, not later than November 16, 1993, new equipment and procedures necessary to meet the technological challenges presented by terrorism. The program shall include research on, and development of, technological improvements and ways to enhance human performance.

(2) In designing and carrying out the program established under this subsection, the Under Secretary shall—

(A) consult and coordinate activities with other departments, agencies, and instrumentalities of the United States Government doing similar research;

(B) identify departments, agencies, and instrumentalities that would benefit from that research; and

(C) seek cost-sharing agreements with those departments, agencies, and instrumentalities.

(3) In carrying out the program established under this subsection, the Under Secretary shall review and consider the annual reports the Secretary of Transportation submits to Congress on transportation security and intelligence.

(4)(A) In carrying out the program established under this subsection, the Administrator shall designate an individual to be responsible for engineering, research, and development with respect to security technology under the program.

(B) The individual designated under subparagraph (A) shall use appropriate systems engineering and risk management models in making decisions regarding the allocation of funds for engineering, research, and development with respect to security technology under the program.

(C) The individual designated under subparagraph (A) shall, on an annual basis, submit to the Research, Engineering and Development Advisory Committee a report on activities under this paragraph during the preceding year. Each report shall include, for the year covered by such report, information on—

(i) progress made in engineering, research, and development with respect to security technology;

(ii) the allocation of funds for engineering, research, and development with respect to security technology; and

(iii) engineering, research, and development with respect to any technologies drawn from other agencies, including the rationale for en-

gineering, research, and development with respect to such technologies.

(5) The Under Secretary may—

(A) make grants to institutions of higher learning and other appropriate research facilities with demonstrated ability to carry out research described in paragraph (1) of this subsection, and fix the amounts and terms of the grants; and

(B) make cooperative agreements with governmental authorities the Under Secretary decides are appropriate.

(b) REVIEW OF THREATS.—(1) The Under Secretary shall periodically review threats to civil aviation, with particular focus on—

(A) a comprehensive systems analysis (employing vulnerability analysis, threat attribute definition, and technology roadmaps) of the civil aviation system, including—

(i) the destruction, commandeering, or diversion of civil aircraft or the use of civil aircraft as a weapon; and

(ii) the disruption of civil aviation service, including by cyber attack;

(B) explosive material that presents the most significant threat to civil aircraft;

(C) the minimum amounts, configurations, and types of explosive material that can cause, or would reasonably be expected to cause, catastrophic damage to aircraft in air transportation;

(D) the amounts, configurations, and types of explosive material that can be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(E) the potential release of chemical, biological, or similar weapons or devices either within an aircraft or within an airport;

(F) the feasibility of using various ways to minimize damage caused by explosive material that cannot be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(G) the ability to screen passengers, carry-on baggage, checked baggage, and cargo; and

(H) the technologies that might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the way in which those technologies can be countered effectively.

(2) The Under Secretary shall use the results of the review under this subsection to develop the focus and priorities of the program established under subsection (a) of this section.

(c) SCIENTIFIC ADVISORY PANEL.—(1) The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering, and Development Advisory Committee, to review, comment on, advise the progress of, and recommend modifications in, the program established under subsection (a) of this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft, commercial aviation facilities, commercial aviation personnel and passengers, and other components of the commercial aviation system by the next generation of terrorist weapons.

(2)(A) The advisory panel shall consist of individuals who have scientific and technical expertise in—

(i) the development and testing of effective explosive detection systems;

(ii) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective explosive detection technology must be capable of detecting;

(iii) technologies involved in minimizing airframe damage to aircraft from explosives; and

(iv) other scientific and technical areas the Administrator considers appropriate.

(B) In appointing individuals to the advisory panel, the Administrator should consider individuals from academia and the national laboratories, as appropriate.

(3) The Administrator shall organize the advisory panel into teams capable of undertaking the review of policies and technologies upon request.

(4) Not later than 90 days after the date of the enactment of the Aviation and Transportation Security Act, and every two years thereafter, the Administrator shall review the composition of the advisory panel in order to ensure that the expertise of the individuals on the panel is suited to the current and anticipated duties of the panel.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1212; Pub. L. 107–71, title I, §§ 101(f)(7), (9), 112, Nov. 19, 2001, 115 Stat. 603, 620.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44912(a)	49 App.:1357(d)(3)(A), (D), (4)–(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(d)(3)–(8); added Nov. 16, 1990, Pub. L. 101–604, § 107, 104 Stat. 3076.
44912(b)	49 App.:1357(d)(3)(B), (C).	
44912(c)	49 App.:1357(d)(8).	

In subsection (a)(1), the words ''It shall be the purpose of the program established under paragraph (3)'' and ''established under paragraph (3)'' are omitted as unnecessary.

In subsection (a)(2)(A), the word ''activities'' is added for clarity. The words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''Federal agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(4), the words ''The Administrator may . . . make grants'' are substituted for ''Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants'' to eliminate unnecessary words. In clause (A), the words ''institutions of higher learning'' are substituted for ''colleges, universities'', and the word ''institutions'' is substituted for ''institutions and facilities'', for clarity and consistency in the revised title and with other titles of the Code. In clause (B), the words ''governmental authorities'' are substituted for ''governmental entities'' for consistency in the revised title and with other titles of the Code.

In subsection (b)(1), before clause (A), the words ''Not later than 180 days after November 16, 1990'' are omitted as obsolete. Clause (B) is substituted for 49 App.:1357(d)(3)(B)(ii) and (iii) for clarity and to eliminate unnecessary words.

In subsection (b)(1)(E), the word ''mail'' is omitted as being included in ''cargo''.

REFERENCES IN TEXT

The date of the enactment of the Aviation and Transportation Security Act, referred to in subsec. (c)(4), is

the date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–71, §101(f)(7), (9), substituted ''Under Secretary of Transportation for Security'' for ''Administrator of the Federal Aviation Administration''.

Subsec. (a)(2), (3). Pub. L. 107–71, §101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

Subsec. (a)(4). Pub. L. 107–71, §112(b)(1)(B), added par. (4). Former par. (4) redesignated (5).

Pub. L. 107–71, §101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in two places.

Subsec. (a)(5). Pub. L. 107–71, §112(b)(1)(A), redesignated par. (4) as (5).

Subsec. (b)(1). Pub. L. 107–71, §§101(f)(7), 112(a)(1), in introductory provisions, substituted ''Under Secretary'' for ''Administrator'' and ''periodically review'' for ''complete an intensive review of''.

Subsec. (b)(1)(A). Pub. L. 107–71, §112(b)(2)(B), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (b)(1)(B). Pub. L. 107–71, §112(b)(2)(A), redesignated subpar. (A) as (B). Former subpar. (B) redesignated (C).

Pub. L. 107–71, §112(a)(2), substituted ''aircraft in air transportation;'' for ''commercial aircraft in service and expected to be in service in the 10-year period beginning on November 16, 1990;''.

Subsec. (b)(1)(C). Pub. L. 107–71, §112(b)(2)(A), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 107–71, §112(b)(2)(A), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Pub. L. 107–71, §112(a)(3), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (b)(1)(E) to (G). Pub. L. 107–71, §112(b)(2)(A), redesignated subpars. (D) to (F) as (E) to (G), respectively. Former subpar. (G) redesignated (H).

Pub. L. 107–71, §112(a)(3), redesignated subpars. (D) to (F) as (E) to (G), respectively.

Subsec. (b)(1)(H). Pub. L. 107–71, §112(b)(2)(A), redesignated subpar. (G) as (H).

Subsec. (b)(2). Pub. L. 107–71, §101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 107–71, §112(b)(3), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, to review, comment on, advise on the progress of, and recommend modifications in, the program established under subsection (a) of this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

''(1) the development and testing of effective explosive detection systems;

''(2) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective technology must be capable of detecting;

''(3) technologies involved in minimizing airframe damage to aircraft from explosives; and

''(4) other scientific and technical areas the Administrator considers appropriate.''

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

RESEARCH AND DEVELOPMENT OF AVIATION SECURITY TECHNOLOGY

Pub. L. 107–71, title I, §137, Nov. 19, 2001, 115 Stat. 637, as amended by Pub. L. 110–53, title XVI, §1608, Aug. 3, 2007, 121 Stat. 484, provided that:

''(a) FUNDING.—To augment the programs authorized in section 44912(a)(1) of title 49, United States Code, there is authorized to be appropriated an additional $50,000,000 for each of fiscal years 2006 through 2011 and such sums as are necessary for each fiscal year thereafter to the Transportation Security Administration, for research, development, testing, and evaluation of the following technologies which may enhance transportation security in the future. Grants to industry, academia, and Government entities to carry out the provisions of this section shall be available for fiscal years 2006 through 2011 for—

''(1) the acceleration of research, development, testing, and evaluation of explosives detection technology for checked baggage, specifically, technology that is—

''(A) more cost-effective for deployment for explosives detection in checked baggage at small- to medium-sized airports, and is currently under development as part of the Argus research program at the Transportation Security Administration;

''(B) faster, to facilitate screening of all checked baggage at larger airports; or

''(C) more accurate, to reduce the number of false positives requiring additional security measures;

''(2) acceleration of research, development, testing, and evaluation of new screening technology for carry-on items to provide more effective means of detecting and identifying weapons, explosives, and components of weapons of mass destruction, including advanced x-ray technology;

''(3) acceleration of research, development, testing, and evaluation of threat screening technology for other categories of items being loaded onto aircraft, including cargo, catering, and duty-free items;

''(4) acceleration of research, development, testing, and evaluation of threats carried on persons boarding aircraft or entering secure areas, including detection of weapons, explosives, and components of weapons of mass destruction;

''(5) acceleration of research, development, testing and evaluation of integrated systems of airport security enhancement, including quantitative methods of assessing security factors at airports selected for testing such systems;

''(6) expansion of the existing program of research, development, testing, and evaluation of improved methods of education, training, and testing of key airport security personnel; and

''(7) acceleration of research, development, testing, and evaluation of aircraft hardening materials, and techniques to reduce the vulnerability of aircraft to terrorist attack.

''(b) GRANTS.—Grants awarded under this subtitle [probably should be ''this section''] shall identify potential outcomes of the research, and propose a method for quantitatively assessing effective increases in security upon completion of the research program. At the conclusion of each grant, the grant recipient shall submit a final report to the Transportation Security Administration that shall include sufficient information to permit the Under Secretary of Transportation for Security to prepare a cost-benefit analysis of potential improvements to airport security based upon deployment of the proposed technology. The Under Secretary shall begin awarding grants under this subtitle within 90 days of the date of enactment of this Act [Nov. 19, 2001].

''(c) BUDGET SUBMISSION.—A budget submission and detailed strategy for deploying the identified security upgrades recommended upon completion of the grants

awarded under subsection (b), shall be submitted to Congress as part of the Department of Transportation's annual budget submission.

''(d) DEFENSE RESEARCH.—There is authorized to be appropriated $20,000,000 to the Transportation Security Administration to issue research grants in conjunction with the Defense Advanced Research Projects Agency. Grants may be awarded under this section for—

''(1) research and development of longer-term improvements to airport security, including advanced weapons detection;

''(2) secure networking and sharing of threat information between Federal agencies, law enforcement entities, and other appropriate parties;

''(3) advances in biometrics for identification and threat assessment; or

''(4) other technologies for preventing acts of terrorism in aviation.''

[For definitions of terms used in section 137 of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.]

TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than expiration of 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to expiration of such 2-year period, or in the case of a panel established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 44913. Explosive detection

(a) DEPLOYMENT AND PURCHASE OF EQUIPMENT.—(1) A deployment or purchase of explosive detection equipment under section 108.7(b)(8) or 108.20 of title 14, Code of Federal Regulations, or similar regulation is required only if the Under Secretary of Transportation for Security certifies that the equipment alone, or as part of an integrated system, can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Under Secretary shall base the certification on the results of tests conducted under protocols developed in consultation with expert scientists outside of the Transportation Security Administration. Those tests shall be completed not later than April 16, 1992.

(2) Before completion of the tests described in paragraph (1) of this subsection, but not later than April 16, 1992, the Under Secretary may require deployment of explosive detection equipment described in paragraph (1) if the Under Secretary decides that deployment will enhance aviation security significantly. In making that decision, the Under Secretary shall consider factors such as the ability of the equipment alone, or as part of an integrated system, to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Under Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of a deployment decision made under this paragraph.

(3) Until such time as the Under Secretary determines that equipment certified under paragraph (1) is commercially available and has successfully completed operational testing as provided in paragraph (1), the Under Secretary shall facilitate the deployment of such approved commercially available explosive detection devices as the Under Secretary determines will enhance aviation security significantly. The Under Secretary shall require that equipment deployed under this paragraph be replaced by equipment certified under paragraph (1) when equipment certified under paragraph (1) becomes commercially available. The Under Secretary is authorized, based on operational considerations at individual airports, to waive the required installation of commercially available equipment under paragraph (1) in the interests of aviation security. The Under Secretary may permit the requirements of this paragraph to be met at airports by the deployment of dogs or other appropriate animals to supplement equipment for screening passengers, baggage, mail, or cargo for explosives or weapons.

(4) This subsection does not prohibit the Under Secretary from purchasing or deploying explosive detection equipment described in paragraph (1) of this subsection.

(b) GRANTS.—The Secretary of Transportation may provide grants to continue the Explosive Detection K-9 Team Training Program to detect explosives at airports and on aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1214; Pub. L. 104–264, title III, § 305(a), Oct. 9, 1996, 110 Stat. 3252; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 107–71, title I, § 101(f)(2), (7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44913(a)(1) ..	49 App.:1358c(a), (b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 320; added Nov. 16, 1990, Pub. L. 101–604, § 108, 104 Stat. 3077.
44913(a)(2) ..	49 App.:1358c(c).	
44913(a)(3) ..	49 App.:1358c(d).	
44913(b)	49 App.:2225.	Sept. 3, 1982, Pub. L. 97–248, § 529, 96 Stat. 699; Dec. 30, 1987, Pub. L. 100–223, § 114, 101 Stat. 1505.

In subsection (a), the words ''after November 16, 1990'' are omitted as executed. The words ''The Administrator shall base the certification on'' are substituted for ''based on'' because of the restatement.

In subsection (b), the words ''but not be limited to'' are omitted as unnecessary.

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–71, § 101(f)(9), substituted ''of Transportation for Security'' for ''of the Federal Aviation Administration''.

Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in two places.

Pub. L. 107–71, § 101(f)(2), substituted ''of the Transportation Security Administration'' for ''of the Administration'' in second sentence.

Subsec. (a)(2) to (4). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' wherever appearing.

1996—Subsec. (a)(2). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

Subsec. (a)(3), (4). Pub. L. 104–264 added par. (3) and redesignated former par. (3) as (4).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

IMPROVED EXPLOSIVE DETECTION SYSTEMS

Pub. L. 108–458, title IV, § 4024, Dec. 17, 2004, 118 Stat. 3724, provided that:

''(a) PLAN AND GUIDELINES.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop a plan and guidelines for implementing improved explosive detection system equipment.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of improved explosive detection systems for aviation security under section 44913 of title 49, United States Code.''

WEAPONS AND EXPLOSIVE DETECTION STUDY

Section 303 of Pub. L. 104–264 provided that:

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the Director of the National Academy of Sciences (or if the National Academy of Sciences is not available, the head of another equivalent entity) to conduct a study in accordance to this section.

''(b) PANEL OF EXPERTS.—

''(1) IN GENERAL.—In carrying out a study under this section, the Director of the National Academy of Sciences (or the head of another equivalent entity) shall establish a panel (hereinafter in this section referred to as the 'panel').

''(2) EXPERTISE.—Each member of the panel shall have expertise in weapons and explosive detection technology, security, air carrier and airport operations, or another appropriate area. The Director of the National Academy of Sciences (or the head of another equivalent entity) shall ensure that the panel has an appropriate number of representatives of the areas specified in the preceding sentence.

''(c) STUDY.—The panel, in consultation with the National Science and Technology Council, representatives of appropriate Federal agencies, and appropriate members of the private sector, shall—

''(1) assess the weapons and explosive detection technologies that are available at the time of the study that are capable of being effectively deployed in commercial aviation;

''(2) determine how the technologies referred to in paragraph (1) may more effectively be used for promotion and improvement of security at airport and aviation facilities and other secured areas;

''(3) assess the cost and advisability of requiring hardened cargo containers as a way to enhance aviation security and reduce the required sensitivity of bomb detection equipment; and

''(4) on the basis of the assessments and determinations made under paragraphs (1), (2), and (3), identify the most promising technologies for the improvement of the efficiency and cost-effectiveness of weapons and explosive detection.

''(d) COOPERATION.—The National Science and Technology Council shall take such actions as may be necessary to facilitate, to the maximum extent practicable and upon request of the Director of the National Academy of Sciences (or the head of another equivalent entity), the cooperation of representatives of appropriate Federal agencies, as provided for in subsection (c), in providing the panel, for the study under this section—

''(1) expertise; and

''(2) to the extent allowable by law, resources and facilities.

''(e) REPORTS.—The Director of the National Academy of Sciences (or the head of another equivalent entity) shall, pursuant to an arrangement entered into under subsection (a), submit to the Administrator such reports as the Administrator considers to be appropriate. Upon receipt of a report under this subsection, the Administrator shall submit a copy of the report to the appropriate committees of Congress.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1997 through 2001 such sums as may be necessary to carry out this section.''

§ 44914. Airport construction guidelines

In consultation with air carriers, airport authorities, and others the Under Secretary of Transportation for Security considers appropriate, the Under Secretary shall develop guidelines for airport design and construction to allow for maximum security enhancement. In developing the guidelines, the Under Secretary shall consider the results of the assessment carried out under section 44904(a) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1214; Pub. L. 107–71, title I, § 101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44914	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(f), 104 Stat. 3075.
	49 App.:1432(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 612(d); added Nov. 16, 1990, Pub. L. 101–604, § 110(a), 104 Stat. 3080.

The words ''In developing the guidelines'' are substituted for ''In developing airport construction guidelines under subsection (d) of section 612 of the Federal Aviation Act of 1958, as added by section 110 of this Act'' in section 106(f) of the Aviation Security Improvement Act of 1990 (Public Law 101–604, 104 Stat. 3075) to eliminate unnecessary words.

AMENDMENTS

2001—Pub. L. 107–71 substituted ''Under Secretary'' for ''Administrator'' wherever appearing and ''of Transportation for Security'' for ''of the Federal Aviation Administration''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44915. Exemptions

The Under Secretary of Transportation for Security may exempt from sections 44901, 44903(a)–(c) and (e), 44906, 44935, and 44936 of this title airports in Alaska served only by air carriers that—

(1) hold certificates issued under section 41102 of this title;

(2) operate aircraft with certificates for a maximum gross takeoff weight of less than 12,500 pounds; and

(3) board passengers, or load property intended to be carried in an aircraft cabin, that will be screened under section 44901 of this title at another airport in Alaska before the passengers board, or the property is loaded on, an aircraft for a place outside Alaska.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1215; Pub. L. 107–71, title I, § 101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44915	49 App.:1358.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 317; added July 12, 1976, Pub. L. 94–353, § 17(a), 90 Stat. 882.

In clause (1), the word ''issued'' is substituted for ''granted'' for consistency in this part. The words ''by the Civil Aeronautics Board'' are omitted as surplus.

Clause (3) is substituted for 49 App.:1358 (words after 3d comma) for consistency in the revised title.

AMENDMENTS

2001—Pub. L. 107–71 substituted ''Under Secretary of Transportation for Security'' for ''Administrator of the Federal Aviation Administration'' in introductory provisions.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44916. Assessments and evaluations

(a) PERIODIC ASSESSMENTS.—The Under Secretary of Transportation for Security shall require each air carrier and airport (including the airport owner or operator in cooperation with the air carriers and vendors serving each airport) that provides for intrastate, interstate, or foreign air transportation to conduct periodic vulnerability assessments of the security systems of that air carrier or airport, respectively. The Transportation Security Administration shall perform periodic audits of such assessments.

(b) INVESTIGATIONS.—The Under Secretary shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine the effectiveness and vulnerabilities of such systems. To the extent allowable by law, the Under Secretary may provide for anonymous tests of those security systems.

(Added Pub. L. 104–264, title III, § 312(a), Oct. 9, 1996, 110 Stat. 3253; amended Pub. L. 107–71, title I, § 101(f)(3), (7), Nov. 19, 2001, 115 Stat. 603.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71, § 101(f)(3), substituted ''Under Secretary of Transportation for Security'' for ''Administrator'' in first sentence and ''Transportation Security Administration'' for ''Administration'' in second sentence.

Subsec. (b). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in two places.

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44917. Deployment of Federal air marshals

(a) IN GENERAL.—The Under Secretary of Transportation for Security under the authority provided by section 44903(d)—

(1) may provide for deployment of Federal air marshals on every passenger flight of air carriers in air transportation or intrastate air transportation;

(2) shall provide for deployment of Federal air marshals on every such flight determined by the Secretary to present high security risks;

(3) shall provide for appropriate training, supervision, and equipment of Federal air marshals;

(4) shall require air carriers providing flights described in paragraph (1) to provide seating for a Federal air marshal on any such flight without regard to the availability of seats on the flight and at no cost to the United States Government or the marshal;

(5) may require air carriers to provide, on a space-available basis, to an off-duty Federal air marshal a seat on a flight to the airport nearest the marshal's home at no cost to the marshal or the United States Government if the marshal is traveling to that airport after completing his or her security duties;

(6) may enter into agreements with Federal, State, and local agencies under which appropriately-trained law enforcement personnel from such agencies, when traveling on a flight of an air carrier, will carry a firearm and be prepared to assist Federal air marshals;

(7) shall establish procedures to ensure that Federal air marshals are made aware of any armed or unarmed law enforcement personnel on board an aircraft; and

(8) may appoint—

(A) an individual who is a retired law enforcement officer;

(B) an individual who is a retired member of the Armed Forces; and

(C) an individual who has been furloughed from an air carrier crew position in the 1-year period beginning on September 11, 2001,

as a Federal air marshal, regardless of age, if the individual otherwise meets the background and fitness qualifications required for Federal air marshals.

(b) LONG DISTANCE FLIGHTS.—In making the determination under subsection (a)(2), nonstop, long distance flights, such as those targeted on September 11, 2001, should be a priority.

(c) INTERIM MEASURES.—Until the Under Secretary completes implementation of subsection (a), the Under Secretary may use, after consultation with and concurrence of the heads of other Federal agencies and departments, personnel from those agencies and departments, on a nonreimbursable basis, to provide air marshal service.

(d) TRAINING FOR FOREIGN LAW ENFORCEMENT PERSONNEL.—

(1) IN GENERAL.—The Assistant Secretary for Immigration and Customs Enforcement of the Department of Homeland Security, after consultation with the Secretary of State, may direct the Federal Air Marshal Service to provide appropriate air marshal training to law enforcement personnel of foreign countries.

(2) WATCHLIST SCREENING.—The Federal Air Marshal Service may only provide appropriate air marshal training to law enforcement personnel of foreign countries after comparing the identifying information and records of law enforcement personnel of foreign countries against all appropriate records in the consolidated and integrated terrorist watchlists maintained by the Federal Government.

(3) FEES.—The Assistant Secretary shall establish reasonable fees and charges to pay expenses incurred in carrying out this subsection. Funds collected under this subsection shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Assistant Secretary for purposes for which amounts in such account are available.

(Added Pub. L. 107–71, title I, § 105(a), Nov. 19, 2001, 115 Stat. 606; amended Pub. L. 108–458, title IV, § 4018, Dec. 17, 2004, 118 Stat. 3721.)

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–458 added subsec. (d).

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

FEDERAL AIR MARSHALS

Pub. L. 108–458, title IV, § 4016, Dec. 17, 2004, 118 Stat. 3720, provided that:

''(a) FEDERAL AIR MARSHAL ANONYMITY.—The Director of the Federal Air Marshal Service of the Department of Homeland Security shall continue operational initiatives to protect the anonymity of Federal air marshals.

''(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Bureau of Immigration and Customs Enforcement, in addition to any amounts otherwise authorized by law, for the deployment of Federal air marshals under section 44917 of title 49, United States Code, $83,000,000 for the 3 fiscal-year period beginning with fiscal year 2005. Such sums shall remain available until expended.

''(c) FEDERAL LAW ENFORCEMENT COUNTERTERRORISM TRAINING.—

''(1) AVAILABILITY OF INFORMATION.—The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, shall make available, as practicable, appropriate information on in-flight counterterrorism and weapons handling procedures and tactics training to Federal law enforcement officers who fly while in possession of a firearm.

''(2) IDENTIFICATION OF FRAUDULENT DOCUMENTS.—The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, in coordination with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall ensure that Transportation Security Administration screeners and Federal air marshals receive training in identifying fraudulent identification documents, including fraudulent or expired visas and passports. Such training shall also be made available to other Federal law enforcement agencies and local law enforcement agencies located in a State that borders Canada or Mexico.''

§ 44918. Crew training

(a) BASIC SECURITY TRAINING.—

(1) IN GENERAL.—Each air carrier providing scheduled passenger air transportation shall carry out a training program for flight and cabin crew members to prepare the crew members for potential threat conditions.

(2) PROGRAM ELEMENTS.—An air carrier training program under this subsection shall include, at a minimum, elements that address each of the following:

(A) Recognizing suspicious activities and determining the seriousness of any occurrence.

(B) Crew communication and coordination.

(C) The proper commands to give passengers and attackers.

(D) Appropriate responses to defend oneself.

(E) Use of protective devices assigned to crew members (to the extent such devices are required by the Administrator of the Federal Aviation Administration or the Under Secretary for Border and Transportation Security of the Department of Homeland Security).

(F) Psychology of terrorists to cope with hijacker behavior and passenger responses.

(G) Situational training exercises regarding various threat conditions.

(H) Flight deck procedures or aircraft maneuvers to defend the aircraft and cabin crew responses to such procedures and maneuvers.

(I) The proper conduct of a cabin search, including explosive device recognition.

(J) Any other subject matter considered appropriate by the Under Secretary.

(3) APPROVAL.—An air carrier training program under this subsection shall be subject to approval by the Under Secretary.

(4) MINIMUM STANDARDS.—Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the Under Secretary may establish minimum standards for the training provided under this subsection and for recurrent training.

(5) EXISTING PROGRAMS.—Notwithstanding paragraphs (3) and (4), any training program of an air carrier to prepare flight and cabin crew members for potential threat conditions that was approved by the Administrator or the Under Secretary before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act may continue in effect until disapproved or ordered modified by the Under Secretary.

(6) MONITORING.—The Under Secretary, in consultation with the Administrator, shall monitor air carrier training programs under this subsection and periodically shall review an air carrier's training program to ensure that the program is adequately preparing crew members for potential threat conditions. In determining when an air carrier's training program should be reviewed under this paragraph, the Under Secretary shall consider complaints from crew members. The Under Secretary shall ensure that employees responsible for monitoring the training programs have the necessary resources and knowledge.

(7) UPDATES.—The Under Secretary, in consultation with the Administrator, shall order air carriers to modify training programs under this subsection to reflect new or different security threats.

(b) ADVANCED SELF-DEFENSE TRAINING.—

(1) IN GENERAL.—Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the Under Secretary shall develop and provide a voluntary training program for flight and cabin crew members of air carriers providing scheduled passenger air transportation.

(2) PROGRAM ELEMENTS.—The training program under this subsection shall include both classroom and effective hands-on training in the following elements of self-defense:

(A) Deterring a passenger who might present a threat.

(B) Advanced control, striking, and restraint techniques.

(C) Training to defend oneself against edged or contact weapons.

(D) Methods to subdue and restrain an attacker.

(E) Use of available items aboard the aircraft for self-defense.

(F) Appropriate and effective responses to defend oneself, including the use of force against an attacker.

(G) Any other element of training that the Under Secretary considers appropriate.

(3) PARTICIPATION NOT REQUIRED.—A crew member shall not be required to participate in the training program under this subsection.

(4) COMPENSATION.—Neither the Federal Government nor an air carrier shall be required to compensate a crew member for participating in the training program under this subsection.

(5) FEES.—A crew member shall not be required to pay a fee for the training program under this subsection.

(6) CONSULTATION.—In developing the training program under this subsection, the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, representatives of air carriers, the director of self-defense training in the Federal Air Marshals Service, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

(7) DESIGNATION OF TSA OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for implementing the training program under this subsection. The official shall consult with air carriers and labor organizations representing crew members before implementing the program to ensure that it is appropriate for situations that may arise on board an aircraft during a flight.

(c) LIMITATION.—Actions by crew members under this section shall be subject to the provisions of section 44903(k).

(Added Pub. L. 107–71, title I, § 107(a), Nov. 19, 2001, 115 Stat. 610; amended Pub. L. 107–296, title XIV, § 1403(a), Nov. 25, 2002, 116 Stat. 2305; Pub. L. 108–176, title VI, § 603, Dec. 12, 2003, 117 Stat. 2563.)

REFERENCES IN TEXT

The date of enactment of the Vision 100—Century of Aviation Reauthorization Act, referred to in subsecs. (a)(4), (5) and (b)(1), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

AMENDMENTS

2003—Pub. L. 108–176 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (e) relating to development of detailed guidance for a scheduled passenger air carrier flight and cabin crew training program to prepare crew members for potential threat conditions.

2002—Subsec. (e). Pub. L. 107–296 designated existing provisions as par. (1), inserted heading, substituted ''The Under Secretary'' for ''The Administrator'', added pars. (2) and (3), and realigned margins.

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.

§ 44919. Security screening pilot program

(a) ESTABLISHMENT OF PROGRAM.—The Under Secretary shall establish a pilot program under which, upon approval of an application submit-

ted by an operator of an airport, the screening of passengers and property at the airport under section 44901 will be carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary.

(b) PERIOD OF PILOT PROGRAM.—The pilot program under this section shall begin on the last day of the 1-year period beginning on the date of enactment of this section and end on the last day of the 3-year period beginning on such date of enactment.

(c) APPLICATIONS.—An operator of an airport may submit to the Under Secretary an application to participate in the pilot program under this section.

(d) SELECTION OF AIRPORTS.—From among applications submitted under subsection (c), the Under Secretary may select for participation in the pilot program not more than 1 airport from each of the 5 airport security risk categories, as defined by the Under Secretary.

(e) SUPERVISION OF SCREENED PERSONNEL.—The Under Secretary shall provide Federal Government supervisors to oversee all screening at each airport participating in the pilot program under this section and provide Federal Government law enforcement officers at the airport pursuant to this chapter.

(f) QUALIFIED PRIVATE SCREENING COMPANY.—A private screening company is qualified to provide screening services at an airport participating in the pilot program under this section if the company will only employ individuals to provide such services who meet all the requirements of this chapter applicable to Federal Government personnel who perform screening services at airports under this chapter and will provide compensation and other benefits to such individuals that are not less than the level of compensation and other benefits provided to such Federal Government personnel in accordance with this chapter.

(g) STANDARDS FOR PRIVATE SCREENING COMPANIES.—The Under Secretary may enter into a contract with a private screening company to provide screening at an airport participating in the pilot program under this section only if the Under Secretary determines and certifies to Congress that the private screening company is owned and controlled by a citizen of the United States, to the extent that the Under Secretary determines that there are private screening companies owned and controlled by such citizens.

(h) TERMINATION OF CONTRACTS.—The Under Secretary may terminate any contract entered into with a private screening company to provide screening services at an airport under the pilot program if the Under Secretary finds that the company has failed repeatedly to comply with any standard, regulation, directive, order, law, or contract applicable to the hiring or training of personnel to provide such services or to the provision of screening at the airport.

(i) ELECTION.—If a contract is in effect with respect to screening at an airport under the pilot program on the last day of the 3-year period beginning on the date of enactment of this section, the operator of the airport may elect to continue to have such screening carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary under section 44920 or by Federal Government personnel in accordance with this chapter.

(Added Pub. L. 107–71, title I, § 108(a), Nov. 19, 2001, 115 Stat. 611.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (b) and (i), is the date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44920. Security screening opt-out program

(a) IN GENERAL.—On or after the last day of the 2-year period beginning on the date on which the Under Secretary transmits to Congress the certification required by section 110(c) of the Aviation and Transportation Security Act, an operator of an airport may submit to the Under Secretary an application to have the screening of passengers and property at the airport under section 44901 to be carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary.

(b) APPROVAL OF APPLICATIONS.—The Under Secretary may approve any application submitted under subsection (a).

(c) QUALIFIED PRIVATE SCREENING COMPANY.—A private screening company is qualified to provide screening services at an airport under this section if the company will only employ individuals to provide such services who meet all the requirements of this chapter applicable to Federal Government personnel who perform screening services at airports under this chapter and will provide compensation and other benefits to such individuals that are not less than the level of compensation and other benefits provided to such Federal Government personnel in accordance with this chapter.

(d) STANDARDS FOR PRIVATE SCREENING COMPANIES.—The Under Secretary may enter into a contract with a private screening company to provide screening at an airport under this section only if the Under Secretary determines and certifies to Congress that—

(1) the level of screening services and protection provided at the airport under the contract will be equal to or greater than the level that would be provided at the airport by Federal Government personnel under this chapter; and

(2) the private screening company is owned and controlled by a citizen of the United States, to the extent that the Under Secretary determines that there are private screening companies owned and controlled by such citizens.

(e) SUPERVISION OF SCREENED PERSONNEL.—The Under Secretary shall provide Federal Government supervisors to oversee all screening at each airport at which screening services are provided under this section and provide Federal Government law enforcement officers at the airport pursuant to this chapter.

(f) TERMINATION OF CONTRACTS.—The Under Secretary may terminate any contract entered into with a private screening company to provide screening services at an airport under this section if the Under Secretary finds that the company has failed repeatedly to comply with any standard, regulation, directive, order, law, or contract applicable to the hiring or training of personnel to provide such services or to the provision of screening at the airport.

(g) OPERATOR OF AIRPORT.—Notwithstanding any other provision of law, an operator of an airport shall not be liable for any claims for damages filed in State or Federal court (including a claim for compensatory, punitive, contributory, or indemnity damages) relating to—

(1) such airport operator's decision to submit an application to the Secretary of Homeland Security under subsection (a) or section 44919 or such airport operator's decision not to submit an application; and

(2) any act of negligence, gross negligence, or intentional wrongdoing by—

(A) a qualified private screening company or any of its employees in any case in which the qualified private screening company is acting under a contract entered into with the Secretary of Homeland Security or the Secretary's designee; or

(B) employees of the Federal Government providing passenger and property security screening services at the airport.

(3) Nothing in this section shall relieve any airport operator from liability for its own acts or omissions related to its security responsibilities, nor except as may be provided by the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 shall it relieve any qualified private screening company or its employees from any liability related to its own acts of negligence, gross negligence, or intentional wrongdoing.

(Added Pub. L. 107–71, title I, § 108(a), Nov. 19, 2001, 115 Stat. 612; amended Pub. L. 109–90, title V, § 547, Oct. 18, 2005, 119 Stat. 2089.)

REFERENCES IN TEXT

Section 110(c) of the Aviation and Transportation Security Act, referred to in subsec. (a), is section 110(c) of Pub. L. 107–71, which is set out as a note under section 44901 of this title.

The Support Anti-Terrorism by Fostering Effective Technologies Act of 2002, referred to in subsec. (g)(3), is subtitle G (§§ 861–865) of title VIII of Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2238, also known as the SAFETY Act, which is classified generally to part G (§ 441 et seq.) of subchapter VIII of chapter 1 of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6 and Tables.

AMENDMENTS

2005—Subsec. (g). Pub. L. 109–90 added subsec. (g).

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44921. Federal flight deck officer program

(a) ESTABLISHMENT.—The Under Secretary of Transportation for Security shall establish a program to deputize volunteer pilots of air carriers providing air transportation or intrastate air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as ''Federal flight deck officers''.

(b) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—Not later than 3 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section.

(2) COMMENCEMENT OF PROGRAM.—Beginning 3 months after the date of enactment of this section, the Under Secretary shall begin the process of training and deputizing pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.

(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

(A) The type of firearm to be used by a Federal flight deck officer.

(B) The type of ammunition to be used by a Federal flight deck officer.

(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

(E) An analysis of the risk of catastrophic failure of an aircraft as a result of the discharge (including an accidental discharge) of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only 1 pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program, including whether an additional background check should be required beyond that required by section 44936(a)(1).

(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot's base airport.

(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

(L) Methods for ensuring that pilots (including Federal flight deck officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

(M) Any other issues that the Under Secretary considers necessary.

(N) The Under Secretary's decisions regarding the methods for implementing each of the foregoing procedural requirements shall be subject to review only for abuse of discretion.

(4) PREFERENCE.—In selecting pilots to participate in the program, the Under Secretary shall give preference to pilots who are former military or law enforcement personnel.

(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119 of this title, information developed under paragraph (3)(E) shall not be disclosed.

(6) NOTICE TO CONGRESS.—The Under Secretary shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

(7) MINIMIZATION OF RISK.—If the Under Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk.

(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

(1) IN GENERAL.—The Under Secretary shall only be obligated to provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

(2) TRAINING.—

(A) IN GENERAL.—The Under Secretary shall base the requirements for the training of Federal flight deck officers under subsection (b) on the training standards applicable to Federal air marshals; except that the Under Secretary shall take into account the differing roles and responsibilities of Federal flight deck officers and Federal air marshals.

(B) ELEMENTS.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

(ii) Training to ensure that the officer maintains exclusive control over the officer's firearm at all times, including training in defensive maneuvers.

(iii) Training to assist the officer in determining when it is appropriate to use the officer's firearm and when it is appropriate to use less than lethal force.

(C) TRAINING IN USE OF FIREARMS.—

(i) STANDARD.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is required by the Under Secretary. Such level shall be comparable to the level of proficiency required of Federal air marshals.

(ii) CONDUCT OF TRAINING.—The training of a Federal flight deck officer in the use of a firearm may be conducted by the Under Secretary or by a firearms training facility approved by the Under Secretary.

(iii) REQUALIFICATION.—The Under Secretary shall require a Federal flight deck officer to requalify to carry a firearm under the program. Such requalification shall occur at an interval required by the Under Secretary.

(d) DEPUTIZATION.—

(1) IN GENERAL.—The Under Secretary may deputize, as a Federal flight deck officer under this section, a pilot who submits to the Under Secretary a request to be such an officer and whom the Under Secretary determines is qualified to be such an officer.

(2) QUALIFICATION.—A pilot is qualified to be a Federal flight deck officer under this section if—

(A) the pilot is employed by an air carrier;

(B) the Under Secretary determines (in the Under Secretary's discretion) that the pilot meets the standards established by the Under Secretary for being such an officer; and

(C) the Under Secretary determines that the pilot has completed the training required by the Under Secretary.

(3) DEPUTIZATION BY OTHER FEDERAL AGENCIES.—The Under Secretary may request another Federal agency to deputize, as Federal flight deck officers under this section, those pilots that the Under Secretary determines are qualified to be such officers.

(4) REVOCATION.—The Under Secretary may,[1] (in the Under Secretary's discretion) revoke the deputization of a pilot as a Federal flight deck officer if the Under Secretary finds that the pilot is no longer qualified to be such an officer.

(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot's training or qualification and requalification to carry firearms under the program.

[1] So in original. The comma probably should not appear.

(f) AUTHORITY TO CARRY FIREARMS.—

(1) IN GENERAL.—The Under Secretary shall authorize a Federal flight deck officer to carry a firearm while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm aboard an aircraft of which the officer is the pilot in accordance with this section if the firearm is of a type that may be used under the program.

(2) PREEMPTION.—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from 1 State to another State.

(3) CARRYING FIREARMS OUTSIDE UNITED STATES.—In consultation with the Secretary of State, the Under Secretary may take such action as may be necessary to ensure that a Federal flight deck officer may carry a firearm in a foreign country whenever necessary to participate in the program.

(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), the Under Secretary shall prescribe the standards and circumstances under which a Federal flight deck officer may use, while the program under this section is in effect, force (including lethal force) against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

(h) LIMITATION ON LIABILITY.—

(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of a Federal flight deck officer's use of or failure to use a firearm.

(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending the flight deck of an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

(3) LIABILITY OF FEDERAL GOVERNMENT.—For purposes of an action against the United States with respect to an act or omission of a Federal flight deck officer in defending the flight deck of an aircraft, the officer shall be treated as an employee of the Federal Government under chapter 171 of title 28, relating to tort claims procedure.

(i) PROCEDURES FOLLOWING ACCIDENTAL DISCHARGES.—If an accidental discharge of a firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Under Secretary—

(1) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Under Secretary determines that the discharge was attributable to the negligence of the officer; and

(2) if the Under Secretary determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, the Under Secretary[2] may temporarily suspend the program until the shortcoming is corrected.

(j) LIMITATION ON AUTHORITY OF AIR CARRIERS.—No air carrier shall prohibit or threaten any retaliatory action against a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier; or

(2) terminate the employment of a Federal flight deck officer, solely on the basis of his or her volunteering for or participating in the program under this section.

(k) APPLICABILITY.—

(1) EXEMPTION.—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

(2) PILOT DEFINED.—The term ''pilot'' means an individual who has final authority and responsibility for the operation and safety of the flight or any other flight deck crew member.

(3) ALL-CARGO AIR TRANSPORTATION.—In this section, the term ''air transportation'' includes all-cargo air transportation.

(Added Pub. L. 107–296, title XIV, § 1402(a), Nov. 25, 2002, 116 Stat. 2300; amended Pub. L. 108–176, title VI, § 609(b), Dec. 12, 2003, 117 Stat. 2570.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(1), (2), is the date of enactment of Pub. L. 107–296, which was approved Nov. 25, 2002.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176, § 609(b)(1), struck out ''passenger'' before ''air transportation'' in two places.

Subsec. (k)(2). Pub. L. 108–176, § 609(b)(2), substituted ''or any other flight deck crew member'' for ''or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command''.

Subsec. (k)(3). Pub. L. 108–176, § 609(b)(3), added par. (3).

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

Section effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as a note under section 101 of Title 6, Domestic Security.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security,

[2] So in original. The words ''the Under Secretary'' probably should not appear.

relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EQUITABLE IMPLEMENTATION OF 2003 AMENDMENTS

Pub. L. 108–176, title VI, § 609(c), Dec. 12, 2003, 117 Stat. 2570, provided that: ''In carrying out the amendments made by subsection (d) [probably means subsec. (b), which amended this section], the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall ensure that passenger and cargo pilots are treated equitably in receiving access to training as Federal flight deck officers.''

TIME FOR IMPLEMENTATION

Pub. L. 108–176, title VI, § 609(d), Dec. 12, 2003, 117 Stat. 2570, provided that: ''The requirements of subsection (e) [section 609 of Pub. L. 108–176 has no subsec. (e)] shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act [Dec. 12, 2003].''

§ 44922. Deputation of State and local law enforcement officers

(a) DEPUTATION AUTHORITY.—The Under Secretary of Transportation for Security may deputize a State or local law enforcement officer to carry out Federal airport security duties under this chapter.

(b) FULFILLMENT OF REQUIREMENTS.—A State or local law enforcement officer who is deputized under this section shall be treated as a Federal law enforcement officer for purposes of meeting the requirements of this chapter and other provisions of law to provide Federal law enforcement officers to carry out Federal airport security duties.

(c) AGREEMENTS.—To deputize a State or local law enforcement officer under this section, the Under Secretary shall enter into a voluntary agreement with the appropriate State or local law enforcement agency that employs the State or local law enforcement officer.

(d) REIMBURSEMENT.—

(1) IN GENERAL.—The Under Secretary shall reimburse a State or local law enforcement agency for all reasonable, allowable, and allocable costs incurred by the State or local law enforcement agency with respect to a law enforcement officer deputized under this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(e) FEDERAL TORT CLAIMS ACT.—A State or local law enforcement officer who is deputized under this section shall be treated as an ''employee of the Government'' for purposes of sections 1346(b), 2401(b), and chapter 171 of title 28, United States Code, while carrying out Federal airport security duties within the course and scope of the officer's employment, subject to Federal supervision and control, and in accordance with the terms of such deputation.

(f) STATIONING OF OFFICERS.—The Under Secretary may allow law enforcement personnel to be stationed other than at the airport security screening location if that would be preferable for law enforcement purposes and if such personnel would still be able to provide prompt responsiveness to problems occurring at the screening location.

(Added Pub. L. 108–7, div. I, title III, § 351(a), Feb. 20, 2003, 117 Stat. 419.)

§ 44923. Airport security improvement projects

(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall make grants to airport sponsors—

(1) for projects to replace baggage conveyer systems related to aviation security;

(2) for projects to reconfigure terminal baggage areas as needed to install explosive detection systems;

(3) for projects to enable the Under Secretary to deploy explosive detection systems behind the ticket counter, in the baggage sorting area, or in line with the baggage handling system; and

(4) for other airport security capital improvement projects.

(b) APPLICATIONS.—A sponsor seeking a grant under this section shall submit to the Under Secretary an application in such form and containing such information as the Under Secretary prescribes.

(c) APPROVAL.—The Under Secretary, after consultation with the Secretary of Transportation, may approve an application of a sponsor for a grant under this section only if the Under Secretary determines that the project will improve security at an airport or improve the efficiency of the airport without lessening security.

(d) LETTERS OF INTENT.—

(1) ISSUANCE.—The Under Secretary shall issue a letter of intent to a sponsor committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an airport security improvement project (including interest costs and costs of formulating the project).

(2) SCHEDULE.—A letter of intent under this subsection shall establish a schedule under which the Under Secretary will reimburse the sponsor for the Government's share of the project's costs, as amounts become available, if the sponsor, after the Under Secretary issues the letter, carries out the project without receiving amounts under this section.

(3) NOTICE TO UNDER SECRETARY.—A sponsor that has been issued a letter of intent under this subsection shall notify the Under Secretary of the sponsor's intent to carry out a project before the project begins.

(4) NOTICE TO CONGRESS.—The Under Secretary shall transmit to the Committees on Appropriations and Transportation and Infrastructure of the House of Representatives and the Committees on Appropriations and Commerce, Science and Transportation of the Senate a written notification at least 3 days before the issuance of a letter of intent under this section.

(5) LIMITATIONS.—A letter of intent issued under this subsection is not an obligation of the Government under section 1501 of title 31,

and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

(6) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(e) FEDERAL SHARE.—

(1) IN GENERAL.—The Government's share of the cost of a project under this section shall be 90 percent for a project at a medium or large hub airport and 95 percent for a project at any other airport.

(2) EXISTING LETTERS OF INTENT.—The Under Secretary shall revise letters of intent issued before the date of enactment of this section to reflect the cost share established in this subsection with respect to grants made after September 30, 2003.

(f) SPONSOR DEFINED.—In this section, the term ''sponsor'' has the meaning given that term in section 47102.

(g) APPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements that apply to grants and letters of intent issued under chapter 471 (other than section 47102(3)) shall apply to grants and letters of intent issued under this section.

(h) AVIATION SECURITY CAPITAL FUND.—

(1) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Aviation Security Capital Fund. The first $250,000,000 derived from fees received under section 44940(a)(1) in each of fiscal years 2004 through 2028 shall be available to be deposited in the Fund. The Under Secretary shall impose the fee authorized by section 44940(a)(1) so as to collect at least $250,000,000 in each of such fiscal years for deposit into the Fund. Amounts in the Fund shall be available to the Under Secretary to make grants under this section.

(2) ALLOCATION.—Of the amount made available under paragraph (1) for a fiscal year, not less than $200,000,000 shall be allocated to fulfill letters of intent issued under subsection (d).

(3) DISCRETIONARY GRANTS.—Of the amount made available under paragraph (1) for a fiscal year, up to $50,000,000 shall be used to make discretionary grants, including other transaction agreements for airport security improvement projects, with priority given to small hub airports and nonhub airports.

(i) LEVERAGED FUNDING.—For purposes of this section, a grant under subsection (a) to an airport sponsor to service an obligation issued by or on behalf of that sponsor to fund a project described in subsection (a) shall be considered to be a grant for that project.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts made available under subsection (h), there is authorized to be appropriated to carry out this section $400,000,000 for each of fiscal years 2005, 2006, and 2007, and $450,000,000 for each of fiscal years 2008 through 2011[1] Such sums shall remain available until expended.

(2) ALLOCATIONS.—50 percent of amounts appropriated pursuant to this subsection for a fiscal year shall be used for making allocations under subsection (h)(2) and 50 percent of such amounts shall be used for making discretionary grants under subsection (h)(3).

(Added Pub. L. 108–176, title VI, § 605(a), Dec. 12, 2003, 117 Stat. 2566; amended Pub. L. 108–458, title IV, § 4019(e)(1), Dec. 17, 2004, 118 Stat. 3722; Pub. L. 110–53, title XVI, §§ 1603(a), 1604(a), Aug. 3, 2007, 121 Stat. 480.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (e)(2), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–53, § 1604(a)(1), substituted ''shall make'' for ''may make'' in introductory provisions.

Subsec. (d)(1). Pub. L. 110–53, § 1604(a)(2), substituted ''shall issue'' for ''may issue''.

Subsec. (h)(1). Pub. L. 110–53, § 1604(a)(3), substituted ''2028'' for ''2007''.

Subsec. (h)(2), (3). Pub. L. 110–53, § 1604(a)(4), added pars. (2) and (3) and struck out former pars. (2) and (3) which related to allocation of $125,000,000 of amount available per fiscal year for large, medium, and small hub airports, nonhub airports, and on the basis of aviation security risks, and allocation of $125,000,000 of amount available per fiscal year for discretionary grants, with priority given to fulfilling letters of intent issued under subsec. (d).

Subsec. (i). Pub. L. 110–53, § 1604(a)(6), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 110–53, § 1603(a), substituted ''2007, and $450,000,000 for each of fiscal years 2008 through 2011'' for ''2007.''

Subsec. (j). Pub. L. 110–53, § 1604(a)(5), redesignated subsec. (i) as (j).

2004—Subsec. (i)(1). Pub. L. 108–458 substituted ''$400,000,000 for each of fiscal years 2005, 2006, and 2007'' for ''$250,000,000 for each of fiscal years 2004 through 2007''.

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

PRIORITIZATION OF PROJECTS

Pub. L. 110–53, title XVI, § 1604(b), Aug. 3, 2007, 121 Stat. 480, provided that:

''(1) IN GENERAL.—The Administrator of the Transportation Security Administration shall establish a prioritization schedule for airport security improvement projects described in section 44923 of title 49, United States Code, based on risk and other relevant factors, to be funded under that section. The schedule shall include both hub airports referred to in paragraphs (29), (31), and (42) of section 40102[(a)] of such title and nonhub airports (as defined in section 47102(13) of such title).

''(2) AIRPORTS THAT HAVE INCURRED ELIGIBLE COSTS.—The schedule shall include airports that have incurred eligible costs associated with development of partial or completed in-line baggage systems before the date of enactment of this Act [Aug. 3, 2007] in reasonable anticipation of receiving a grant under section 44923 of

[1] So in original. Probably should be followed by a period.

title 49, United States Code, in reimbursement of those costs but that have not received such a grant.

''(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall provide a copy of the prioritization schedule, a corresponding timeline, and a description of the funding allocation under section 44923 of title 49, United States Code, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives.''

PERIOD OF REIMBURSEMENT

Pub. L. 108–458, title IV, § 4019(e)(2), Dec. 17, 2004, 118 Stat. 3722, provided that: ''Notwithstanding any other provision of law, the Secretary [of Homeland Security] may provide that the period of reimbursement under any letter of intent may extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, and letters of intent issued under section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 [Pub. L. 108–7, div. I] (49 U.S.C. 47110 note).''

§ 44924. Repair station security

(a) SECURITY REVIEW AND AUDIT.—To ensure the security of maintenance and repair work conducted on air carrier aircraft and components at foreign repair stations, the Under Secretary for Border and Transportation Security of the Department of Homeland Security, in consultation with the Administrator of the Federal Aviation Administration, shall complete a security review and audit of foreign repair stations that are certified by the Administrator under part 145 of title 14, Code of Federal Regulations, and that work on air carrier aircraft and components. The review shall be completed not later than 6 months after the date on which the Under Secretary issues regulations under subsection (f).

(b) ADDRESSING SECURITY CONCERNS.—The Under Secretary shall require a foreign repair station to address the security issues and vulnerabilities identified in a security audit conducted under subsection (a) within 90 days of providing notice to the repair station of the security issues and vulnerabilities so identified and shall notify the Administrator that a deficiency was identified in the security audit.

(c) SUSPENSIONS AND REVOCATIONS OF CERTIFICATES.—

(1) FAILURE TO CARRY OUT EFFECTIVE SECURITY MEASURES.—If, after the 90th day on which a notice is provided to a foreign repair station under subsection (b), the Under Secretary determines that the foreign repair station does not maintain and carry out effective security measures, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall suspend the certification of the repair station until such time as the Under Secretary determines that the repair station maintains and carries out effective security measures and transmits the determination to the Administrator.

(2) IMMEDIATE SECURITY RISK.—If the Under Secretary determines that a foreign repair station poses an immediate security risk, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall revoke the certification of the repair station.

(3) PROCEDURES FOR APPEALS.—The Under Secretary, in consultation with the Administrator, shall establish procedures for appealing a revocation of a certificate under this subsection.

(d) FAILURE TO MEET AUDIT DEADLINE.—If the security audits required by subsection (a) are not completed on or before the date that is 6 months after the date on which the Under Secretary issues regulations under subsection (f), the Administrator shall be barred from certifying any foreign repair station (other than a station that was previously certified, or is in the process of certification, by the Administration under this part) until such audits are completed for existing stations.

(e) PRIORITY FOR AUDITS.—In conducting the audits described in subsection (a), the Under Secretary and the Administrator shall give priority to foreign repair stations located in countries identified by the Government as posing the most significant security risks.

(f) REGULATIONS.—Not later than 240 days after the date of enactment of this section, the Under Secretary, in consultation with the Administrator, shall issue final regulations to ensure the security of foreign and domestic aircraft repair stations.

(g) REPORT TO CONGRESS.—If the Under Secretary does not issue final regulations before the deadline specified in subsection (f), the Under Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an explanation as to why the deadline was not met and a schedule for issuing the final regulations.

(Added Pub. L. 108–176, title VI, § 611(b)(1), Dec. 12, 2003, 117 Stat. 2571; amended Pub. L. 110–53, title XVI, § 1616(b), Aug. 3, 2007, 121 Stat. 488.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (f), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–53, § 1616(b)(1), substituted ''6 months'' for ''18 months''.

Subsec. (d). Pub. L. 110–53, § 1616(b)(2), inserted ''(other than a station that was previously certified, or is in the process of certification, by the Administration under this part)'' after ''foreign repair station''.

Pub. L. 110–53, § 1616(b)(1), which directed amendment of subsec. (b) by substituting ''6 months'' for ''18 months'', was executed by making the substitution in subsec. (d), to reflect the probable intent of Congress.

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

SUSPENSION OF CERTIFICATION OF FOREIGN REPAIR STATIONS

Pub. L. 110–53, title XVI, § 1616(a), Aug. 3, 2007, 121 Stat. 488, provided that: ''If the regulations required by

section 44924(f) of title 49, United States Code, are not issued within 1 year after the date of enactment of this Act [Aug. 3, 2007], the Administrator of the Federal Aviation Administration may not certify any foreign repair station under part 145 of title 14, Code of Federal Regulations, after such date unless the station was previously certified, or is in the process of certification by the Administration under that part.''

§ 44925. Deployment and use of detection equipment at airport screening checkpoints

(a) WEAPONS AND EXPLOSIVES.—The Secretary of Homeland Security shall give a high priority to developing, testing, improving, and deploying, at airport screening checkpoints, equipment that detects nonmetallic, chemical, biological, and radiological weapons, and explosives, in all forms, on individuals and in their personal property. The Secretary shall ensure that the equipment alone, or as part of an integrated system, can detect under realistic operating conditions the types of weapons and explosives that terrorists would likely try to smuggle aboard an air carrier aircraft.

(b) STRATEGIC PLAN FOR DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall submit to the appropriate congressional committees a strategic plan to promote the optimal utilization and deployment of explosive detection equipment at airports to screen individuals and their personal property. Such equipment includes walk-through explosive detection portals, document scanners, shoe scanners, and backscatter x-ray scanners. The plan may be submitted in a classified format.

(2) CONTENT.—The strategic plan shall include, at minimum—

(A) a description of current efforts to detect explosives in all forms on individuals and in their personal property;

(B) a description of the operational applications of explosive detection equipment at airport screening checkpoints;

(C) a deployment schedule and a description of the quantities of equipment needed to implement the plan;

(D) a description of funding needs to implement the plan, including a financing plan that provides for leveraging of non-Federal funding;

(E) a description of the measures taken and anticipated to be taken in carrying out subsection (d); and

(F) a description of any recommended legislative actions.

(3) IMPLEMENTATION.—The Secretary shall begin implementation of the strategic plan within one year after the date of enactment of this paragraph.

(c) PORTAL DETECTION SYSTEMS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $250,000,000, in addition to any amounts otherwise authorized by law, for research, development, and installation of detection systems and other devices for the detection of biological, chemical, radiological, and explosive materials.

(d) INTERIM ACTION.—Until measures are implemented that enable the screening of all passengers for explosives, the Assistant Secretary shall provide, by such means as the Assistant Secretary considers appropriate, explosives detection screening for all passengers identified for additional screening and their personal property that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation.

(Added Pub. L. 108–458, title IV, § 4013(a), Dec. 17, 2004, 118 Stat. 3719; amended Pub. L. 110–53, title XVI, § 1607(b), Aug. 3, 2007, 121 Stat. 483.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 108–458, which was approved Dec. 17, 2004.

The date of enactment of this paragraph, referred to in subsec. (b)(3), is the date of enactment of Pub. L. 110–53, which was approved Aug. 3, 2007.

AMENDMENTS

2007—Subsec. (b)(3). Pub. L. 110–53 added par. (3).

ISSUANCE OF STRATEGIC PLAN FOR DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS

Pub. L. 110–53, title XVI, § 1607(a), Aug. 3, 2007, 121 Stat. 483, provided that: ''Not later than 30 days after the date of enactment of this Act [Aug. 3, 2007], the Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall issue the strategic plan the Secretary was required by section 44925(b) of title 49, United States Code, to have issued within 90 days after the date of enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) [Dec. 17, 2004].''

ADVANCED AIRPORT CHECKPOINT SCREENING DEVICES

Pub. L. 108–458, title IV, § 4014, Dec. 17, 2004, 118 Stat. 3720, directed the Assistant Secretary of Homeland Security (Transportation Security Administration), not later than Mar. 31, 2005, to develop and initiate a pilot program to deploy and test advanced airport checkpoint screening devices and technology as an integrated system at not less than 5 airports in the United States.

§ 44926. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a timely and fair process for individuals who believe they have been delayed or prohibited from boarding a commercial aircraft because they were wrongly identified as a threat under the regimes utilized by the Transportation Security Administration, United States Customs and Border Protection, or any other office or component of the Department of Homeland Security.

(b) OFFICE OF APPEALS AND REDRESS.—

(1) ESTABLISHMENT.—The Secretary shall establish in the Department an Office of Appeals and Redress to implement, coordinate, and execute the process established by the Secretary pursuant to subsection (a). The Office shall include representatives from the Trans-

portation Security Administration, United States Customs and Border Protection, and such other offices and components of the Department as the Secretary determines appropriate.

(2) RECORDS.—The process established by the Secretary pursuant to subsection (a) shall include the establishment of a method by which the Office, under the direction of the Secretary, will be able to maintain a record of air carrier passengers and other individuals who have been misidentified and have corrected erroneous information.

(3) INFORMATION.—To prevent repeated delays of an[1] misidentified passenger or other individual, the Office shall—

(A) ensure that the records maintained under this subsection contain information determined by the Secretary to authenticate the identity of such a passenger or individual;

(B) furnish to the Transportation Security Administration, United States Customs and Border Protection, or any other appropriate office or component of the Department, upon request, such information as may be necessary to allow such office or component to assist air carriers in improving their administration of the advanced passenger prescreening system and reduce the number of false positives; and

(C) require air carriers and foreign air carriers take action to identify passengers determined, under the process established under subsection (a), to have been wrongly identified.

(4) HANDLING OF PERSONALLY IDENTIFIABLE INFORMATION.—The Secretary, in conjunction with the Chief Privacy Officer of the Department shall—

(A) require that Federal employees of the Department handling personally identifiable information of passengers (in this paragraph referred to as ''PII'') complete mandatory privacy and security training prior to being authorized to handle PII;

(B) ensure that the records maintained under this subsection are secured by encryption, one-way hashing, other data anonymization techniques, or such other equivalent security technical protections as the Secretary determines necessary;

(C) limit the information collected from misidentified passengers or other individuals to the minimum amount necessary to resolve a redress request;

(D) require that the data generated under this subsection shall be shared or transferred via a secure data network, that has been audited to ensure that the anti-hacking and other security related software functions properly and is updated as necessary;

(E) ensure that any employee of the Department receiving the data contained within the records handles the information in accordance with the section 552a of title 5, United States Code, and the Federal Information Security Management Act of 2002 (Public Law 107–296);

(F) only retain the data for as long as needed to assist the individual traveler in the redress process; and

(G) conduct and publish a privacy impact assessment of the process described within this subsection and transmit the assessment to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and Committee on Homeland Security and Governmental Affairs of the Senate.

(5) INITIATION OF REDRESS PROCESS AT AIRPORTS.—The Office shall establish at each airport at which the Department has a significant presence a process to provide information to air carrier passengers to begin the redress process established pursuant to subsection (a).

(Added Pub. L. 110–53, title XVI, § 1606(a), Aug. 3, 2007, 121 Stat. 482.)

REFERENCES IN TEXT

The Federal Information Security Management Act of 2002, referred to in subsec. (b)(4)(E), is title X of Pub. L. 107–296, Nov. 25, 116 Stat. 2259. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6, Domestic Security, and Tables.

SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

[§§ 44931, 44932. Repealed. Pub. L. 107–71, title I, § 101(f)(6), Nov. 19, 2001, 115 Stat. 603]

Section 44931, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1215, related to the Director of Intelligence and Security.

Section 44932, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1215; Pub. L. 107–71, title I, § 110(a), Nov. 19, 2001, 115 Stat. 614, related to the Assistant Administrator for Civil Aviation Security.

§ 44933. Federal Security Managers

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Under Secretary of Transportation for Security shall establish the position of Federal Security Manager at each airport in the United States described in section 44903(c). The Under Secretary shall designate individuals as Managers for, and station those Managers at, those airports.

(b) DUTIES AND POWERS.—The Manager at each airport shall—

(1) oversee the screening of passengers and property at the airport; and

(2) carry out other duties prescribed by the Under Secretary.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1216; Pub. L. 107–71, title I, §§ 101(f)(4), 103, Nov. 19, 2001, 115 Stat. 603, 605.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44933(a)	49 App.:1358b(a)(1), (2), (4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 319(a); added Nov. 16, 1990, Pub. L. 101–604, § 104, 104 Stat. 3070.
44933(b)	49 App.:1358b(a)(3).	
44933(c)	49 App.:1358b(a)(5).	

In subsection (a), the words ''Not later than 90 days after November 16, 1990'' are omitted as obsolete. The

[1] So in original.

words ''The Administrator shall designate individuals as Managers for, and station those Managers at, those airports'' are substituted for ''and shall begin designating persons as such Managers and stationing such Managers at such airports'' for clarity and because of the restatement. The words ''and designate a current field employee of the Administration as a Manager'' are substituted for ''assign the functions and responsibilities described in this section to existing Federal Aviation Administration field personnel and designate such personnel accordingly'' to eliminate unnecessary words. The words ''to the office of'' are omitted as unnecessary. The words ''Not later than 1 year after November 16, 1990'' are omitted as obsolete. The words ''Secretary of Transportation'' are substituted for ''Department of Transportation'' because of 49:102.

In subsection (b), before clause (1), the words ''The Manager at each airport shall'' are substituted for ''The responsibilities of a Federal Security Manager shall include the following'' to eliminate unnecessary words. In clause (2)(A), the words ''air carrier'' are substituted for ''such air carrier'' because this is the first time the term is used in the source provisions. In clause (3), the words ''United States Government'' are substituted for ''Federal'' for clarity and consistency in the revised title and with other titles of the United States Code. In clause (7), the words ''other Managers'' are substituted for ''Federal Security Managers at other airports, as appropriate'' to eliminate unnecessary words.

In subsection (c), the words ''duties and powers'' are substituted for ''responsibilities'' for clarity and consistency in the revised title and with other titles of the Code.

AMENDMENTS

2001—Pub. L. 107–71, § 103, amended section generally, substituting provisions relating to designation, establishment, and stationing procedures and duties and powers for provisions which contained a more detailed listing of responsibilities and a prohibition against a Civil Aviation Security Field Officer being assigned security duties and powers at an airport having a Manager.

Subsec. (a). Pub. L. 107–71, § 101(f)(4), substituted ''Under Secretary'' for ''Assistant Administrator for Civil Aviation Security''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44934. Foreign Security Liaison Officers

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Under Secretary of Transportation for Security shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Under Secretary decides an Officer is necessary for air transportation security. In coordination with the Secretary of State, the Under Secretary shall designate an Officer for each of those airports. In coordination with the Secretary, the Under Secretary shall designate an Officer for each of those airports where extraordinary security measures are in place. The Secretary shall give high priority to stationing those Officers.

(b) DUTIES AND POWERS.—An Officer reports directly to the Under Secretary. The Officer at each airport shall—

(1) serve as the liaison of the Under Secretary to foreign security authorities (including governments of foreign countries and foreign airport authorities) in carrying out United States Government security requirements at that airport; and

(2) to the extent practicable, carry out duties and powers referred to in section 44933(b) of this title.

(c) COORDINATION OF ACTIVITIES.—The activities of each Officer shall be coordinated with the chief of the diplomatic mission of the United States to which the Officer is assigned. Activities of an Officer under this section shall be consistent with the duties and powers of the Secretary and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4802) and section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1217; Pub. L. 107–71, title I, § 101(f)(4), (5), (7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44934(a)	49 App.:1358b(b)(1), (2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 319(b); added Nov. 16, 1990, Pub. L. 101–604, § 104, 104 Stat. 3071.
44934(b)	49 App.:1358b(b)(3), (4).	
44934(c)	49 App.:1358b(b)(5).	

In subsection (a), the words ''Not later than 90 days after November 16, 1990'' are omitted as obsolete. The words ''shall designate'' are substituted for ''shall begin assigning'' for consistency with the source provisions restated in section 44933 of the revised title and because of the restatement. The words ''Not later than 2 years after November 16, 1990'' are omitted as obsolete. The word ''designate'' is substituted for ''assign'' for consistency with the source provisions restated in section 44933 of the revised title. The words ''outside the United States'' are omitted as unnecessary.

In subsection (b), before clause (1), the words ''to the office of'' are omitted as unnecessary. In clause (1), the words ''governments of foreign countries and foreign airport authorities'' are substituted for ''foreign governments and airport authorities'' for clarity and consistency in the revised title and with other titles of the United States Code. In clause (2), the words ''duties and powers'' are substituted for ''responsibilities'' for consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''duties and powers'' are substituted for ''authorities'' for clarity and consistency in the revised title and with other titles of the Code.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71, § 101(f)(7), (9), substituted ''Under Secretary'' for ''Administrator'' wherever appearing and ''of Transportation for Security'' for ''of the Federal Aviation Administration''.

Subsec. (b). Pub. L. 107–71, § 101(f)(4), substituted ''Under Secretary'' for ''Assistant Administrator for Civil Aviation Security'' in introductory provisions.

Subsec. (b)(1). Pub. L. 107–71, § 101(f)(5), substituted ''Under Secretary'' for ''Assistant Administrator''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44935. Employment standards and training

(a) EMPLOYMENT STANDARDS.—The Under Secretary of Transportation for Security shall prescribe standards for the employment and continued employment of, and contracting for, air carrier personnel and, as appropriate, airport security personnel. The standards shall include—

(1) minimum training requirements for new employees;

(2) retraining requirements;

(3) minimum staffing levels;

(4) minimum language skills; and

(5) minimum education levels for employees, when appropriate.

(b) REVIEW AND RECOMMENDATIONS.—In coordination with air carriers, airport operators, and other interested persons, the Under Secretary shall review issues related to human performance in the aviation security system to maximize that performance. When the review is completed, the Under Secretary shall recommend guidelines and prescribe appropriate changes in existing procedures to improve that performance.

(c) SECURITY PROGRAM TRAINING, STANDARDS, AND QUALIFICATIONS.—(1) The Under Secretary—

(A) may train individuals employed to carry out a security program under section 44903(c) of this title; and

(B) shall prescribe uniform training standards and uniform minimum qualifications for individuals eligible for that training.

(2) The Under Secretary may authorize reimbursement for travel, transportation, and subsistence expenses for security training of non-United States Government domestic and foreign individuals whose services will contribute significantly to carrying out civil aviation security programs. To the extent practicable, air travel reimbursed under this paragraph shall be on air carriers.

(d) EDUCATION AND TRAINING STANDARDS FOR SECURITY COORDINATORS, SUPERVISORY PERSONNEL, AND PILOTS.—(1) The Under Secretary shall prescribe standards for educating and training—

(A) ground security coordinators;

(B) security supervisory personnel; and

(C) airline pilots as in-flight security coordinators.

(2) The standards shall include initial training, retraining, and continuing education requirements and methods. Those requirements and methods shall be used annually to measure the performance of ground security coordinators and security supervisory personnel.

(e) SECURITY SCREENERS.—

(1) TRAINING PROGRAM.—The Under Secretary of Transportation for Security shall establish a program for the hiring and training of security screening personnel.

(2) HIRING.—

(A) QUALIFICATIONS.—Within 30 days after the date of enactment of the Aviation and Transportation Security Act, the Under Secretary shall establish qualification standards for individuals to be hired by the United States as security screening personnel. Notwithstanding any provision of law, those standards shall require, at a minimum, an individual—

(i) to have a satisfactory or better score on a Federal security screening personnel selection examination;

(ii) to be a citizen of the United States or a national of the United States, as defined in section 1101(a)(22)[1] of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

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

(iv) to meet such other qualifications as the Under Secretary may establish; and

(v) to have the ability to demonstrate daily a fitness for duty without any impairment due to illegal drugs, sleep deprivation, medication, or alcohol.

(B) BACKGROUND CHECKS.—The Under Secretary shall require that an individual to be hired as a security screener undergo an employment investigation (including a criminal history record check) under section 44936(a)(1).

(C) DISQUALIFICATION OF INDIVIDUALS WHO PRESENT NATIONAL SECURITY RISKS.—The Under Secretary, in consultation with the heads of other appropriate Federal agencies, shall establish procedures, in addition to any background check conducted under section 44936, to ensure that no individual who presents a threat to national security is employed as a security screener.

(3) EXAMINATION; REVIEW OF EXISTING RULES.—The Under Secretary shall develop a security screening personnel examination for use in determining the qualification of individuals seeking employment as security screening personnel. The Under Secretary shall also review, and revise as necessary, any standard, rule, or regulation governing the employment of individuals as security screening personnel.

(f) EMPLOYMENT STANDARDS FOR SCREENING PERSONNEL.—

(1) SCREENER REQUIREMENTS.—Notwithstanding any provision of law, an individual may not be deployed as a security screener unless that individual meets the following requirements:

(A) The individual shall possess a high school diploma, a general equivalency diploma, or experience that the Under Secretary has determined to be sufficient for the individual to perform the duties of the position.

(B) The individual shall possess basic aptitudes and physical abilities, including color

[1] So in original. Probably should be section ''101(a)(22)''.

perception, visual and aural acuity, physical coordination, and motor skills, to the following standards:

(i) Screeners operating screening equipment shall be able to distinguish on the screening equipment monitor the appropriate imaging standard specified by the Under Secretary.

(ii) Screeners operating any screening equipment shall be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies.

(iii) Screeners shall be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment in an active checkpoint environment.

(iv) Screeners performing physical searches or other related operations shall be able to efficiently and thoroughly manipulate and handle such baggage, containers, and other objects subject to security processing.

(v) Screeners who perform pat-downs or hand-held metal detector searches of individuals shall have sufficient dexterity and capability to thoroughly conduct those procedures over an individual's entire body.

(C) The individual shall be able to read, speak, and write English well enough to—

(i) carry out written and oral instructions regarding the proper performance of screening duties;

(ii) read English language identification media, credentials, airline tickets, and labels on items normally encountered in the screening process;

(iii) provide direction to and understand and answer questions from English-speaking individuals undergoing screening; and

(iv) write incident reports and statements and log entries into security records in the English language.

(D) The individual shall have satisfactorily completed all initial, recurrent, and appropriate specialized training required by the security program, except as provided in paragraph (3).

(2) VETERANS PREFERENCE.—The Under Secretary shall provide a preference for the hiring of an individual as a security screener if the individual is a member or former member of the armed forces and if the individual is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member of the armed forces.

(3) EXCEPTIONS.—An individual who has not completed the training required by this section may be deployed during the on-the-job portion of training to perform functions if that individual—

(A) is closely supervised; and

(B) does not make independent judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

(4) REMEDIAL TRAINING.—No individual employed as a security screener may perform a screening function after that individual has failed an operational test related to that function until that individual has successfully completed the remedial training specified in the security program.

(5) ANNUAL PROFICIENCY REVIEW.—The Under Secretary shall provide that an annual evaluation of each individual assigned screening duties is conducted and documented. An individual employed as a security screener may not continue to be employed in that capacity unless the evaluation demonstrates that the individual—

(A) continues to meet all qualifications and standards required to perform a screening function;

(B) has a satisfactory record of performance and attention to duty based on the standards and requirements in the security program; and

(C) demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

(6) OPERATIONAL TESTING.—In addition to the annual proficiency review conducted under paragraph (5), the Under Secretary shall provide for the operational testing of such personnel.

(g) TRAINING.—

(1) USE OF OTHER AGENCIES.—The Under Secretary may enter into a memorandum of understanding or other arrangement with any other Federal agency or department with appropriate law enforcement responsibilities, to provide personnel, resources, or other forms of assistance in the training of security screening personnel.

(2) TRAINING PLAN.—Within 60 days after the date of enactment of the Aviation and Transportation Security Act, the Under Secretary shall develop a plan for the training of security screening personnel. The plan shall require, at a minimum, that a security screener—

(A) has completed 40 hours of classroom instruction or successfully completed a program that the Under Secretary determines will train individuals to a level of proficiency equivalent to the level that would be achieved by such classroom instruction;

(B) has completed 60 hours of on-the-job instructions; and

(C) has successfully completed an on-the-job training examination prescribed by the Under Secretary.

(3) EQUIPMENT-SPECIFIC TRAINING.—An individual employed as a security screener may not use any security screening device or equipment in the scope of that individual's employment unless the individual has been trained on that device or equipment and has successfully completed a test on the use of the device or equipment.

(h) TECHNOLOGICAL TRAINING.—

(1) IN GENERAL.—The Under Secretary shall require training to ensure that screeners are proficient in using the most up-to-date new technology and to ensure their proficiency in recognizing new threats and weapons.

(2) PERIODIC ASSESSMENTS.—The Under Secretary shall make periodic assessments to determine if there are dual use items and inform security screening personnel of the existence of such items.

(3) CURRENT LISTS OF DUAL USE ITEMS.—Current lists of dual use items shall be part of the ongoing training for screeners.

(4) DUAL USE DEFINED.—For purposes of this subsection, the term ''dual use'' item means an item that may seem harmless but that may be used as a weapon.

(i)[2] LIMITATION ON RIGHT TO STRIKE.—An individual that screens passengers or property, or both, at an airport under this section may not participate in a strike, or assert the right to strike, against the person (including a governmental entity) employing such individual to perform such screening.

(j) UNIFORMS.—The Under Secretary shall require any individual who screens passengers and property pursuant to section 44901 to be attired while on duty in a uniform approved by the Under Secretary.

(i)[2] ACCESSIBILITY OF COMPUTER-BASED TRAINING FACILITIES.—The Under Secretary shall work with air carriers and airports to ensure that computer-based training facilities intended for use by security screeners at an airport regularly serving an air carrier holding a certificate issued by the Secretary of Transportation are conveniently located for that airport and easily accessible.

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

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44935(a)	49 App.:1357(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(h)–(j); added Nov. 16, 1990, Pub. L. 101–604, § 105(a), 104 Stat. 3073.
44935(b)	49 App.:1357(i).	
44935(c)	49 App.:1357(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(c); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 416; Oct. 31, 1992, Pub. L. 102–581, § 202, 106 Stat. 4890.
44935(d)	49 App.:1357(j).	

In subsection (a), before clause (1), the words ''Not later than 270 days after November 16, 1990'' are omitted as obsolete. The words ''contracting for'' are substituted for ''contracting of'' for clarity and consistency in the revised title.

In subsection (c)(1)(A), the words ''individuals employed'' are substituted for ''personnel employed by him . . . and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (c)(1)(B), the words ''individuals eligible'' are substituted for ''personnel whose services are utilized to enforce any such transportation security program, including State, local, and private law enforcement personnel . . . for personnel eligible'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c)(2), the words ''under this section'' are omitted as unnecessary. The words ''United States'' before ''air carriers'' are omitted because of the definition of ''air carrier'' in section 40102(a) of the revised title.

In subsection (d)(1), before clause (A), the words ''Not later than 180 days after November 16, 1990'' are omitted as obsolete.

REFERENCES IN TEXT

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

AMENDMENTS

2002—Subsec. (e)(2)(A)(ii). Pub. L. 107–296 substituted ''citizen of the United States or a national of the United States, as defined in section 1101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))'' for ''citizen of the United States''.

2001—Subsec. (a). Pub. L. 107–71, § 101(f)(7), (9), substituted ''Under Secretary of Transportation for Security'' for ''Administrator of the Federal Aviation Administration'' in introductory provisions.

Subsec. (b). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in two places.

Subsec. (c). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in introductory provisions of par. (1) and in par. (2).

Subsec. (d)(1). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in introductory provisions.

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

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

Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

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

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

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

Subsec. (j). Pub. L. 107–71, § 111(a)(2), added subsec. (j).

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

EFFECTIVE DATE OF 2002 AMENDMENT

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

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106–528, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TRANSITION

Pub. L. 107–71, title I, § 111(c), Nov. 19, 2001, 115 Stat. 620, provided that: ''The Under Secretary of Transpor-

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

tation for Security shall complete the full implementation of section 44935 (e), (f), (g), and (h) of title 49, United States Code, as amended by subsection (a), as soon as is practicable. The Under Secretary may make or continue such arrangements for the training of security screeners under that section as the Under Secretary determines necessary pending full implementation of that section as so amended.''

IMPROVEMENT OF SCREENER JOB PERFORMANCE

Pub. L. 108–458, title IV, § 4015, Dec. 17, 2004, 118 Stat. 3720, provided that:

''(a) REQUIRED ACTION.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as may be necessary to improve the job performance of airport screening personnel.

''(b) HUMAN FACTORS STUDY.—In carrying out this section, the Assistant Secretary shall provide, not later than 180 days after the date of the enactment of this Act [Dec. 17, 2004], to the appropriate congressional committees a report on the results of any human factors study conducted by the Department of Homeland Security to better understand problems in screener performance and to improve screener performance.''

[For definitions of ''airport'' and ''appropriate congressional committees'' used in section 4015 of Pub. L. 108–458, set out above, see section 4081 of Pub. L. 108–458, set out as a note under section 44901 of this title.]

SCREENER PERSONNEL

Pub. L. 107–71, title I, § 111(d), Nov. 19, 2001, 115 Stat. 620, provided that: ''Notwithstanding any other provision of law, the Under Secretary of Transportation for Security may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service for such a number of individuals as the Under Secretary determines to be necessary to carry out the screening functions of the Under Secretary under section 44901 of title 49, United States Code. The Under Secretary shall establish levels of compensation and other benefits for individuals so employed.''

CERTIFICATION OF SCREENING COMPANIES

Pub. L. 104–264, title III, § 302, Oct. 9, 1996, 110 Stat. 3250, provided that: ''The Administrator of the Federal Aviation Administration is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.''

STUDIES OF MINIMUM STANDARDS FOR PILOT QUALIFICATIONS AND OF PAY FOR TRAINING

Pub. L. 104–264, title V, § 503, Oct. 9, 1996, 110 Stat. 3263, provided that:

''(a) STUDY.—The Administrator of the Federal Aviation Administration shall appoint a task force consisting of appropriate representatives of the aviation industry to conduct—

''(1) a study directed toward the development of—

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

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

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

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

STUDY OF MINIMUM FLIGHT TIME

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

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

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

§ 44936. Employment investigations and restrictions

(a) EMPLOYMENT INVESTIGATION REQUIREMENT.—(1)(A) The Under Secretary of Transportation for Security shall require by regulation that an employment investigation, including a criminal history record check and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security,,[1] shall be conducted of each individual employed in, or applying for, a position as a security screener under section 44935(e) or a position in which the individual has unescorted access, or may permit other individuals to have unescorted access, to—

(i) aircraft of an air carrier or foreign air carrier; or

(ii) a secured area of an airport in the United States the Under Secretary designates that serves an air carrier or foreign air carrier.

(B) The Under Secretary shall require by regulation that an employment investigation (including a criminal history record check and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security) be conducted for—

(i) individuals who are responsible for screening passengers or property under section 44901 of this title;

(ii) supervisors of the individuals described in clause (i);

(iii) individuals who regularly have escorted access to aircraft of an air carrier or foreign air carrier or a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier; and

(iv) such other individuals who exercise security functions associated with baggage or cargo, as the Under Secretary determines is necessary to ensure air transportation security.

(C) BACKGROUND CHECKS OF CURRENT EMPLOYEES.—

(i) A new background check (including a criminal history record check and a review of

[1] So in original.

available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security shall be required for any individual who is employed in a position described in subparagraphs (A) and (B) on the date of enactment of the Aviation and Transportation Security Act.

(ii) The Under Secretary may provide by order (without regard to the provisions of chapter 5 of title 5, United States Code) for a phased-in implementation of the requirements of this subparagraph.

(D) EXEMPTION.—An employment investigation, including a criminal history record check, shall not be required under this subsection for an individual who is exempted under section 107.31(m)(1) or (2) of title 14, Code of Federal Regulations, as in effect on November 22, 2000. The Under Secretary shall work with the International Civil Aviation Organization and with appropriate authorities of foreign countries to ensure that individuals exempted under this subparagraph do not pose a threat to aviation or national security.

(2) An air carrier, foreign air carrier, airport operator, or government that employs, or authorizes or makes a contract for the services of, an individual in a position described in paragraph (1) of this subsection shall ensure that the investigation the Under Secretary requires is conducted.

(3) The Under Secretary shall provide for the periodic audit of the effectiveness of criminal history record checks conducted under paragraph (1) of this subsection.

(b) PROHIBITED EMPLOYMENT.—(1) Except as provided in paragraph (3) of this subsection, an air carrier, foreign air carrier, airport operator, or government may not employ, or authorize or make a contract for the services of, an individual in a position described in subsection (a)(1) of this section if—

(A) the investigation of the individual required under this section has not been conducted; or

(B) the results of that investigation establish that, in the 10-year period ending on the date of the investigation, the individual was convicted (or found not guilty by reason of insanity) of—

(i) a crime referred to in section 46306, 46308, 46312, 46314, or 46315 or chapter 465 of this title or section 32 of title 18;

(ii) murder;

(iii) assault with intent to murder;

(iv) espionage;

(v) sedition;

(vi) treason;

(vii) rape;

(viii) kidnapping;

(ix) unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(x) extortion;

(xi) armed or felony unarmed robbery;

(xii) distribution of, or intent to distribute, a controlled substance;

(xiii) a felony involving a threat;

(xiv) a felony involving—

(I) willful destruction of property;

(II) importation or manufacture of a controlled substance;

(III) burglary;

(IV) theft;

(V) dishonesty, fraud, or misrepresentation;

(VI) possession or distribution of stolen property;

(VII) aggravated assault;

(VIII) bribery; and

(IX) illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year, or any other crime classified as a felony that the Under Secretary determines indicates a propensity for placing contraband aboard an aircraft in return for money; or

(xv) conspiracy to commit any of the acts referred to in clauses (i) through (xiv).

(2) The Under Secretary may specify other factors that are sufficient to prohibit the employment of an individual in a position described in subsection (a)(1) of this section.

(3) An air carrier, foreign air carrier, airport operator, or government may employ, or authorize or contract for the services of, an individual in a position described in subsection (a)(1) of this section without carrying out the investigation required under this section, if the Under Secretary approves a plan to employ the individual that provides alternate security arrangements.

(c) FINGERPRINTING AND RECORD CHECK INFORMATION.—(1) If the Under Secretary requires an identification and criminal history record check, to be conducted by the Attorney General, as part of an investigation under this section, the Under Secretary shall designate an individual to obtain fingerprints and submit those fingerprints to the Attorney General. The Attorney General may make the results of a check available to an individual the Under Secretary designates. Before designating an individual to obtain and submit fingerprints or receive results of a check, the Under Secretary shall consult with the Attorney General. All Federal agencies shall cooperate with the Under Secretary and the Under Secretary's designee in the process of collecting and submitting fingerprints.

(2) The Under Secretary shall prescribe regulations on—

(A) procedures for taking fingerprints; and

(B) requirements for using information received from the Attorney General under paragraph (1) of this subsection—

(i) to limit the dissemination of the information; and

(ii) to ensure that the information is used only to carry out this section.

(3) If an identification and criminal history record check is conducted as part of an investigation of an individual under this section, the individual—

(A) shall receive a copy of any record received from the Attorney General; and

(B) may complete and correct the information contained in the check before a final employment decision is made based on the check.

(d) FEES AND CHARGES.—The Under Secretary and the Attorney General shall establish reason-

able fees and charges to pay expenses incurred in carrying out this section. The employer of the individual being investigated shall pay the costs of a record check of the individual. Money collected under this section shall be credited to the account in the Treasury from which the expenses were incurred and are available to the Under Secretary and the Attorney General for those expenses.

(e) WHEN INVESTIGATION OR RECORD CHECK NOT REQUIRED.—This section does not require an investigation or record check when the investigation or record check is prohibited by a law of a foreign country.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1218; Pub. L. 104–264, title III, §§ 304(a), 306, title V, § 502(a), Oct. 9, 1996, 110 Stat. 3251, 3252, 3259; Pub. L. 105–102, § 2(25), Nov. 20, 1997, 111 Stat. 2205; Pub. L. 105–142, § 1, Dec. 5, 1997, 111 Stat. 2650; Pub. L. 106–181, title V, § 508, Apr. 5, 2000, 114 Stat. 140; Pub. L. 106–528, § 2(c), (d), Nov. 22, 2000, 114 Stat. 2517, 2518; Pub. L. 107–71, title I, §§ 101(f)(7), (9), 111(b), 138(a), (b)(1), 140(a)(1), Nov. 19, 2001, 115 Stat. 603, 620, 639–641.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44936(a)	49 App.:1357(g)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(g); added Nov. 16, 1990, Pub. L. 101–604, § 105(a), 104 Stat. 3071.
	49 App.:1357 (note).	Oct. 28, 1991, Pub. L. 102–143, § 346, 105 Stat. 949.
44936(b)	49 App.:1357(g)(3).	
44936(c)	49 App.:1357(g)(2) (less (A) (2d sentence)).	
44936(d)	49 App.:1357(g)(2)(A) (2d sentence), (5).	
44936(e)	49 App.:1357(g)(4).	

In subsection (a), the text of section 346 of the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102–143, 105 Stat. 949) is omitted as executed.

In subsection (a)(2), the words ''shall ensure'' are substituted for ''shall take such actions as may be necessary to ensure'' to eliminate unnecessary words. The word ''conducted'' is substituted for ''performed'' for consistency in the revised title.

In subsection (b)(2), the words ''The Administrator may specify'' are substituted for ''The Administrator may specify . . . the Administrator determines'' to eliminate unnecessary words. The words ''prohibit the employment of an individual'' are substituted for ''make an individual ineligible for employment'' for clarity.

In subsection (b)(3), the words ''may employ'' are substituted for ''It shall not be a violation of subparagraph (A) for . . . to employ'' to eliminate unnecessary words.

In subsection (c)(1), the words ''Before designating an individual to obtain and submit fingerprints or receive results of a check, the Administrator shall consult with the Attorney General'' are substituted for ''after consultation with the Attorney General'' for clarity.

In subsection (c)(2), before clause (A), the words ''For purposes of administering this subsection'' are omitted as unnecessary. In clause (A), the word ''implement'' is omitted as unnecessary because of the restatement. In clause (B), before subclause (ii), the word ''establish'' is omitted as unnecessary because of the restatement. In subclause (ii), the words ''to carry out this section'' are substituted for ''for the purposes of this section'' for clarity.

In subsection (e), the words ''a law of a foreign country'' are substituted for ''applicable laws of a foreign government'' for clarity and consistency in the revised title and with other titles of the United States Code.

PUB. L. 105–102

This amends 49:44936(f)(1)(C) to reflect the redesignation of 49:30305(b)(7) as 49:30305(b)(8) by section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3908).

REFERENCES IN TEXT

The date of enactment of the Aviation and Transportation Security Act, referred to in subsec. (a)(1)(C)(i), is the date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

AMENDMENTS

2001—Subsec. (a)(1)(A). Pub. L. 107–71, § 138(a)(1), inserted ''and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security,'' after ''record check'' in introductory provisions.

Pub. L. 107–71, § 111(b)(1), inserted ''as a security screener under section 44935(e) or a position'' after ''a position'' in introductory provisions.

Pub. L. 107–71, § 101(f)(7), (9), in introductory provisions, substituted ''Under Secretary'' for ''Administrator'' and ''of Transportation for Security'' for ''of the Federal Aviation Administration''.

Subsec. (a)(1)(A)(ii). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

Subsec. (a)(1)(B). Pub. L. 107–71, § 138(a)(2), in introductory provisions, substituted ''and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security'' for ''in any case described in subparagraph (C)''.

Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in introductory provisions.

Subsec. (a)(1)(B)(i). Pub. L. 107–71, § 138(a)(3), substituted ''are'' for ''will be''.

Subsec. (a)(1)(B)(ii). Pub. L. 107–71, § 138(a)(4), struck out ''and'' after semicolon.

Subsec. (a)(1)(B)(iii). Pub. L. 107–71, § 138(a)(6), added cl. (iii). Former cl. (iii) redesignated (iv).

Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

Subsec. (a)(1)(B)(iv). Pub. L. 107–71, § 138(a)(5), redesignated cl. (iii) as (iv).

Subsec. (a)(1)(C). Pub. L. 107–71, § 138(a)(7), (8), added subpar. (C) and struck out former subpar (C) which related to criminal history record checks.

Subsec. (a)(1)(D). Pub. L. 107–71, § 138(a)(7), (9), (10), redesignated subpar. (F) as (D), substituted ''107.31(m)(1) or (2)'' for ''107.31(m)'' and ''November 22, 2000. The Under Secretary shall work with the International Civil Aviation Organization and with appropriate authorities of foreign countries to ensure that individuals exempted under this subparagraph do not pose a threat to aviation or national security'' for ''the date of enactment of this subparagraph'' and struck out former subpar. (D) which allowed a supervised employee to remain in position until completion of record check.

Subsec. (a)(1)(E). Pub. L. 107–71, § 138(a)(7), struck out subpar. (E) which related to criminal history record checks for screeners and others.

Subsec. (a)(1)(E)(iv). Pub. L. 107–71, § 111(b)(2), struck out cl. (iv) which related to effective dates for subpar. (E).

Subsec. (a)(1)(F). Pub. L. 107–71, § 138(a)(7), redesignated subpar. (F) as (D).

Subsec. (a)(2). Pub. L. 107–71, §§ 107(f)(7), 138(a)(11), substituted ''carrier, airport operator, or government'' for ''carrier, or airport operator'' and ''Under Secretary'' for ''Administrator''.

Subsec. (a)(3). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

Subsec. (b)(1). Pub. L. 107–71, § 138(a)(12), substituted ''carrier, airport operator, or government'' for ''carrier, or airport operator'' in introductory provisions.

Subsec. (b)(1)(B)(xiv)(IX). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

Subsec. (b)(2). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

Subsec. (b)(3). Pub. L. 107–71, §§ 101(f)(7), 138(a)(13), substituted ''carrier, airport operator, or government'' for ''carrier, or airport operator'' and ''Under Secretary'' for ''Administrator''.

Subsec. (c)(1). Pub. L. 107–71, § 138(a)(14), inserted at end ''All Federal agencies shall cooperate with the Under Secretary and the Under Secretary's designee in the process of collecting and submitting fingerprints.''

Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' wherever appearing.

Subsec. (c)(2). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in introductory provisions.

Subsec. (d). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in two places.

Subsecs. (f) to (h). Pub. L. 107–71, §§ 138(b)(1), 140(a)(1), amended section identically, redesignating subsecs. (f) to (h) as (h) to (j), respectively, of section 44703 of this title.

2000—Subsec. (a)(1)(A). Pub. L. 106–528, § 2(c)(1), in introductory provisions, struck out '', as the Administrator decides is necessary to ensure air transportation security,'' after ''shall be conducted''.

Subsec. (a)(1)(C)(v). Pub. L. 106–181, § 508(a), added cl. (v).

Subsec. (a)(1)(D). Pub. L. 106–528, § 2(c)(2), substituted ''in the position for which the individual applied'' for ''as a screener''.

Subsec. (a)(1)(E), (F). Pub. L. 106–528, § 2(c)(3), added subpars. (E) and (F).

Subsec. (b)(1)(B). Pub. L. 106–528, § 2(d)(1), inserted ''(or found not guilty by reason of insanity)'' after ''convicted'' in introductory provisions.

Subsec. (b)(1)(B)(xi). Pub. L. 106–528, § 2(d)(2), inserted ''or felony unarmed'' after ''armed''.

Subsec. (b)(1)(B)(xiii) to (xv). Pub. L. 106–528, § 2(d)(3)–(5), added cls. (xiii) and (xiv), redesignated former cl. (xiii) as (xv), and in cl. (xv) substituted ''clauses (i) through (xiv)'' for ''clauses (i)–(xii) of this paragraph''.

Subsec. (f)(1)(B). Pub. L. 106–181, § 508(b)(1), inserted ''(except a branch of the United States Armed Forces, the National Guard, or a reserve component of the United States Armed Forces)'' after ''other person'' in introductory provisions.

Subsec. (f)(1)(B)(ii). Pub. L. 106–181, § 508(b)(2), substituted ''individual's performance as a pilot'' for ''individual'' in introductory provisions.

Subsec. (f)(5). Pub. L. 106–181, § 508(b)(3), inserted before period at end of first sentence ''; except that, for purposes of paragraph (15), the Administrator may allow an individual designated by the Administrator to accept and maintain written consent on behalf of the Administrator for records requested under paragraph (1)(A)''.

Subsec. (f)(13). Pub. L. 106–181, § 508(b)(4)(A), substituted ''shall'' for ''may'' in introductory provisions.

Subsec. (f)(13)(A)(i). Pub. L. 106–181, § 508(b)(4)(B), inserted ''and disseminated under paragraph (15)'' after ''requested under paragraph (1)''.

Subsec. (f)(14)(B). Pub. L. 106–181, § 508(b)(5), inserted ''or from a foreign government or entity that employed the individual'' after ''exists''.

Subsec. (f)(15). Pub. L. 106–181, § 508(b)(6), added par. (15).

1997—Subsec. (f)(1). Pub. L. 105–142, § 1(1), substituted ''Subject to paragraph (14), before allowing an individual to begin service'' for ''Before hiring an individual'' in introductory provisions.

Subsec. (f)(1)(B). Pub. L. 105–142, § 1(2), inserted ''as a pilot of a civil or public aircraft'' before ''at any time'' in introductory provisions.

Subsec. (f)(1)(C). Pub. L. 105–102 substituted ''section 30305(b)(8) of this title'' for ''section 30305(b)(7)''.

Subsec. (f)(4). Pub. L. 105–142, § 1(3), inserted ''and air carriers'' after ''Administrator'' and substituted ''paragraphs (1)(A) and (1)(B)'' for ''paragraph (1)(A)''.

Subsec. (f)(5). Pub. L. 105–142, § 1(4), substituted ''this subsection'' for ''this paragraph''.

Subsec. (f)(10). Pub. L. 105–142, § 1(5), inserted ''who is or has been'' before ''employed'' and '', but not later than 30 days after the date'' after ''reasonable time''.

Subsec. (f)(14). Pub. L. 105–142, § 1(6), added par. (14).

1996—Subsec. (a)(1). Pub. L. 104–264, § 304(a), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) of par. (1) as cls. (i) and (ii) of subpar. (A), respectively, and added subpars. (B) to (D).

Subsec. (a)(3). Pub. L. 104–264, § 306, added par. (3).

Subsecs. (f) to (h). Pub. L. 104–264, § 502(a), added subsecs. (f) to (h).

EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106–528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106–528, set out as a note under section 106 of this title.

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 304(b) of Pub. L. 104–264 provided that: ''The amendment made by subsection (a)(3) [amending this section] shall apply to individuals hired to perform functions described in section 44936(a)(1)(B) of title 49, United States Code, after the date of the enactment of this Act [Oct. 9, 1996]; except that the Administrator of the Federal Aviation Administration may, as the Administrator determines to be appropriate, require such employment investigations or criminal history records checks for individuals performing those functions on the date of the enactment of this Act.''

Amendment by section 502(a) of Pub. L. 104–264 applicable to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following Oct. 9, 1996, see section 502(d) of Pub. L. 104–264, set out as a note under section 30305 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CRIMINAL HISTORY RECORD CHECKS

Pub. L. 106–528, § 2(a), (b), Nov. 22, 2000, 114 Stat. 2517, provided that:

''(a) EXPANSION OF FAA ELECTRONIC PILOT PROGRAM.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Nov. 22, 2000], the Administrator of the Federal Aviation Administration shall develop, in consultation with the Office of Personnel Management and the Federal Bureau of Investigation, the pilot program for individual criminal history record checks (known as the electronic fingerprint transmission pilot project) into an aviation industry-wide program.

''(2) LIMITATION.—The Administrator shall not require any airport, air carrier, or screening company to participate in the program described in subsection (a) if the airport, air carrier, or screening company determines that it would not be cost effective for it to participate in the program and notifies the Administrator of that determination.

''(b) APPLICATION OF EXPANDED PROGRAM.—

''(1) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 22, 2000], the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the status of the Administrator's efforts to utilize the program described in subsection (a).

''(2) NOTIFICATION CONCERNING SUFFICIENCY OF OPERATION.—If the Administrator determines that the program described in subsection (a) is not sufficiently operational 2 years after the date of enactment of this Act to permit its utilization in accordance with subsection (a), the Administrator shall notify the committees referred to in paragraph (1) of that determination.''

§ 44937. Prohibition on transferring duties and powers

Except as specifically provided by law, the Under Secretary of Transportation for Security may not transfer a duty or power under section 44903(a), (b), (c), or (e), 44906, 44912, 44935, 44936, or 44938(b)(3) of this title to another department, agency, or instrumentality of the United States Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1219; Pub. L. 103–429, § 6(57), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 107–71, title I, § 101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44937	49 App.:1357(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(e)(1); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 417.

The word ''otherwise'' is omitted as surplus. The word ''assigned'' is omitted as being included in ''transfer''. The word ''function'' is omitted as being included in ''duty or power''. The words ''department, agency, or instrumentality of the United States Government'' are substituted for ''Federal department or agency'' for clarity and consistency in the revised title and with other titles of the United States Code.

PUB. L. 103–429

This amends 49:44937 to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1219).

AMENDMENTS

2001—Pub. L. 107–71 substituted ''Under Secretary of Transportation for Security'' for ''Administrator of the Federal Aviation Administration''.

1994—Pub. L. 103–429 substituted ''44906'' for ''44906(a)(1) or (b)''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44938. Reports

(a) TRANSPORTATION SECURITY.—Not later than March 31 of each year, the Secretary of Transportation shall submit to Congress a report on transportation security with recommendations the Secretary considers appropriate. The report shall be prepared in conjunction with the biennial report the Under Secretary of Transportation for Security submits under subsection (b) of this section in each year the Under Secretary submits the biennial report, but may not duplicate the information submitted under subsection (b) or section 44907(a)(3) of this title. The Secretary may submit the report in classified and unclassified parts. The report shall include—

(1) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

(2) an evaluation of deployment of explosive detection devices;

(3) recommendations for research, engineering, and development activities related to transportation security, except research engineering and development activities related to aviation security to the extent those activities are covered by the national aviation research plan required under section 44501(c) of this title;

(4) identification and evaluation of cooperative efforts with other departments, agencies, and instrumentalities of the United States Government;

(5) an evaluation of cooperation with foreign transportation and security authorities;

(6) the status of the extent to which the recommendations of the President's Commission on Aviation Security and Terrorism have been carried out and the reasons for any delay in carrying out those recommendations;

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

(8) financial and staffing requirements of the Director;

(9) an assessment of financial and staffing requirements, and attainment of existing staffing goals, for carrying out duties and powers of the Under Secretary related to security; and

(10) appropriate legislative and regulatory recommendations.

(b) SCREENING AND FOREIGN AIR CARRIER AND AIRPORT SECURITY.—The Under Secretary shall submit biennially to Congress a report—

(1) on the effectiveness of procedures under section 44901 of this title;

(2) that includes a summary of the assessments conducted under section 44907(a)(1) and (2) of this title; and

(3) that includes an assessment of the steps being taken, and the progress being made, in

ensuring compliance with section 44906 of this title for each foreign air carrier security program at airports outside the United States—

(A) at which the Under Secretary decides that Foreign Security Liaison Officers are necessary for air transportation security; and

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

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1220; Pub. L. 103–305, title V, § 502, Aug. 23, 1994, 108 Stat. 1595; Pub. L. 105–362, title XV, § 1502(b), Nov. 10, 1998, 112 Stat. 3295; Pub. L. 107–71, title I, § 101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44938(a)	49 App.:1356(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 315(b); added Nov. 16, 1990, Pub. L. 101–604, § 102(a), 104 Stat. 3068.
44938(b)(1), (2).	49 App.:1356(a) (3d sentence 1st–18th words, last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 315(a) (3d sentence 1st–18th words, last sentence); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 415; Aug. 8, 1985, Pub. L. 99–83, § 551(b)(1), 99 Stat. 225; Nov. 16, 1990, Pub. L. 101–604, § 102(b), 104 Stat. 3069.
44938(b)(3) ..	49 App.:1357(k)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(k)(4); added Nov. 16, 1990, Pub. L. 101–604, § 105(a), 104 Stat. 3074.
44938(c)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(d), 104 Stat. 3075.

In subsection (a), before clause (1), the words ''each year'' are substituted for ''of calendar year 1991 and of each calendar year thereafter'' to eliminate unnecessary words. In clauses (8) and (9), the word ''financial'' is substituted for ''funding'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word ''screening'' is omitted as surplus.

In subsection (b)(2), the words ''a summary of the assessments conducted under section 44907(a)(1) and (2) of this title'' are substituted for ''the information described in section 1515(c) of this Appendix'' for clarity.

In subsection (b)(3), before clause (A), the words ''that includes'' are substituted for ''The Administrator shall submit to Congress as part of the annual report required by section 315(a)'' because of the restatement.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71, § 101(f)(7), (9), in introductory provisions, substituted ''Under Secretary'' for ''Administrator'' in two places and ''of Transportation for Security'' for ''of the Federal Aviation Administration''.

Subsec. (a)(9). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator''.

Subsec. (b). Pub. L. 107–71, § 101(f)(7), substituted ''Under Secretary'' for ''Administrator'' in introductory provisions and par. (3)(A).

1998—Subsec. (a). Pub. L. 105–362, § 1502(b)(1), in second sentence of introductory provisions, substituted ''biennial report'' for ''annual report'' and inserted ''in each year the Administrator submits the biennial report'' after ''subsection (b) of this section''.

Subsec. (b). Pub. L. 105–362, § 1502(b)(2), substituted ''biennially'' for ''annually'' in introductory provisions.

Subsec. (c). Pub. L. 105–362, § 1502(b)(3), struck out heading and text of subsec. (c). Text read as follows: ''The Administrator shall submit to Congress an annual report for each of the calendar years 1991 and 1992 on the progress being made, and the problems occurring, in carrying out section 44904 of this title. The report shall include recommendations for improving domestic air transportation security.''

1994—Subsec. (a). Pub. L. 103–305 substituted ''March 31'' for ''December 31''.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 8th item on page 132 and the 11th item on page 138 identify reporting provisions which, as subsequently amended, are contained, respectively, in subsecs. (a) and (b)(1), (2) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44939. Training to operate certain aircraft

(a) WAITING PERIOD.—A person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of more than 12,500 pounds to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if—

(1) that person has first notified the Secretary that the alien or individual has requested such training and submitted to the Secretary, in such form as the Secretary may prescribe, the following information about the alien or individual:

(A) full name, including any aliases used by the applicant or variations in spelling of the applicant's name;

(B) passport and visa information;

(C) country of citizenship;

(D) date of birth;

(E) dates of training; and

(F) fingerprints collected by, or under the supervision of, a Federal, State, or local law enforcement agency or by another entity approved by the Federal Bureau of Investigation or the Secretary of Homeland Security, including fingerprints taken by United States Government personnel at a United States embassy or consulate; and

(2) the Secretary has not directed, within 30 days after being notified under paragraph (1), that person not to provide the requested training because the Secretary has determined that the individual presents a risk to aviation or national security.

(b) INTERRUPTION OF TRAINING.—If the Secretary of Homeland Security, more than 30 days after receiving notification under subsection (a)

from a person providing training described in subsection (a), determines that the individual presents a risk to aviation or national security, the Secretary shall immediately notify the person providing the training of the determination and that person shall immediately terminate the training.

(c) NOTIFICATION.—A person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of 12,500 pounds or less to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if that person has notified the Secretary that the individual has requested such training and furnished the Secretary with that individual's identification in such form as the Secretary may require.

(d) EXPEDITED PROCESSING.—Not later than 60 days after the date of enactment of this section, the Secretary shall establish a process to ensure that the waiting period under subsection (a) shall not exceed 5 days for an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) who—

(1) holds an airman's certification of a foreign country that is recognized by an agency of the United States, including a military agency, that permits an individual to operate a multi-engine aircraft that has a certificated takeoff weight of more than 12,500 pounds;

(2) is employed by a foreign air carrier that is certified under part 129 of title 14, Code of Federal Regulations, and that has a security program approved under section 1546 of title 49, Code of Federal Regulations;

(3) is an individual that has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii); or

(4) is an individual that is part of a class of individuals that the Secretary has determined that providing aviation training to presents minimal risk to aviation or national security because of the aviation training already possessed by such class of individuals.

(e) TRAINING.—In subsection (a), the term ''training'' means training received from an instructor in an aircraft or aircraft simulator and does not include recurrent training, ground training, or demonstration flights for marketing purposes.

(f) NONAPPLICABILITY TO CERTAIN FOREIGN MILITARY PILOTS.—The procedures and processes required by subsections (a) through (d) shall not apply to a foreign military pilot endorsed by the Department of Defense for flight training in the United States and seeking training described in subsection (e) in the United States.

(g) FEE.—

(1) IN GENERAL.—The Secretary of Homeland Security may assess a fee for an investigation under this section, which may not exceed $100 per individual (exclusive of the cost of transmitting fingerprints collected at overseas facilities) during fiscal years 2003 and 2004. For fiscal year 2005 and thereafter, the Secretary may adjust the maximum amount of the fee to reflect the costs of such an investigation.

(2) OFFSET.—Notwithstanding section 3302 of title 31, any fee collected under this section—

(A) shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Secretary for those expenses; and

(B) shall remain available until expended.

(h) INTERAGENCY COOPERATION.—The Attorney General, the Director of Central Intelligence, and the Administrator of the Federal Aviation Administration shall cooperate with the Secretary in implementing this section.

(i) SECURITY AWARENESS TRAINING FOR EMPLOYEES.—The Secretary shall require flight schools to conduct a security awareness program for flight school employees to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.

(Added Pub. L. 107–71, title I, § 113(a), Nov. 19, 2001, 115 Stat. 622; amended Pub. L. 108–176, title VI, § 612(a), Dec. 12, 2003, 117 Stat. 2572.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (d), probably means the date of enactment of Pub. L. 108–176, which amended this section generally and was approved Dec. 12, 2003.

AMENDMENTS

2003—Pub. L. 108–176 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (d) relating to waiting period for training, interruption of training, covered training, and security awareness training for employees.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title VI, § 612(c), Dec. 12, 2003, 117 Stat. 2574, provided that: ''The amendment made by subsection (a) [amending this section] takes effect on the effective date of the interim final rule required by subsection (b)(1) [set out below] [rule effective Sept. 20, 2004, see 69 F.R. 56323].''

EFFECTIVE DATE

Pub. L. 107–71, title I, § 113(d), Nov. 19, 2001, 115 Stat. 622, provided that: ''The amendment made by subsection (a) [enacting this section] applies to applications for training received after the date of enactment of this Act [Nov. 19, 2001].''

IMPLEMENTATION

Pub. L. 108–176, title VI, § 612(b), Dec. 12, 2003, 117 Stat. 2574, provided that:

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Dec. 12, 2003], the Secretary of Homeland Security shall promulgate an interim final rule to implement section 44939 of title 49, United States Code, as amended by subsection (a).

''(2) USE OF OVERSEAS FACILITIES.—In order to implement section 44939 of title 49, United States Code, as amended by subsection (a), United States Embassies and Consulates that possess appropriate fingerprint collection equipment and personnel certified to capture fingerprints shall provide fingerprint services to aliens covered by that section if the Secretary requires fingerprints in the administration of that section, and shall transmit the fingerprints to the Secretary or other agency designated by the Secretary. The Attorney General and the Secretary of State shall cooperate with the Secretary of Homeland Security in carrying out this paragraph.

''(3) USE OF UNITED STATES FACILITIES.—If the Secretary of Homeland Security requires fingerprinting in

the administration of section 44939 of title 49, United States Code, the Secretary may designate locations within the United States that will provide fingerprinting services to individuals covered by that section.''

REPORT

Pub. L. 108–176, title VI, § 612(d), Dec. 12, 2003, 117 Stat. 2574, provided that: ''Not later than 1 year after the date of enactment of this Act [Dec. 12, 2003], the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the effectiveness of the activities carried out under section 44939 of title 49, United States Code, in reducing risks to aviation security and national security.''

INTERNATIONAL COOPERATION

Pub. L. 107–71, title I, § 113(c), Nov. 19, 2001, 115 Stat. 622, provided that: ''The Secretary of Transportation, in consultation with the Secretary of State, shall work with the International Civil Aviation Organization and the civil aviation authorities of other countries to improve international aviation security through screening programs for flight instruction candidates.''

§ 44940. Security service fee

(a) GENERAL AUTHORITY.—

(1) PASSENGER FEES.—The Under Secretary of Transportation for Security shall impose a uniform fee, on passengers of air carriers and foreign air carriers in air transportation and intrastate air transportation originating at airports in the United States, to pay for the following costs of providing civil aviation security services:

(A) Salary, benefits, overtime, retirement and other costs of screening personnel, their supervisors and managers, and Federal law enforcement personnel deployed at airport security screening locations under section 44901.

(B) The costs of training personnel described in subparagraph (A), and the acquisition, operation, and maintenance of equipment used by such personnel.

(C) The costs of performing background investigations of personnel described in subparagraphs (A), (D), (F), and (G).

(D) The costs of the Federal air marshals program.

(E) The costs of performing civil aviation security research and development under this title.

(F) The costs of Federal Security Managers under section 44903.

(G) The costs of deploying Federal law enforcement personnel pursuant to section 44903(h).

(H) The costs of security-related capital improvements at airports.

(I) The costs of training pilots and flight attendants under sections 44918 and 44921.

The amount of such costs shall be determined by the Under Secretary and shall not be subject to judicial review. For purposes of subparagraph (A), the term ''Federal law enforcement personnel'' includes State and local law enforcement officers who are deputized under section 44922.

(2) AIR CARRIER FEES.—

(A) AUTHORITY.—In addition to the fee imposed pursuant to paragraph (1), and only to the extent that the Under Secretary estimates that such fee will be insufficient to pay for the costs of providing civil aviation security services described in paragraph (1), the Under Secretary may impose a fee on air carriers and foreign air carriers engaged in air transportation and intrastate air transportation to pay for the difference between any such costs and the amount collected from such fee, as estimated by the Under Secretary at the beginning of each fiscal year. The estimates of the Under Secretary under this subparagraph are not subject to judicial review except for estimates and additional collections made pursuant to the appropriation for Aviation Security in Public Law 108–334: *Provided*, That such judicial review shall be pursuant to section 46110 of title 49, United States Code: *Provided further*, That such judicial review shall be limited only to additional amounts collected by the Secretary before October 1, 2007.

(B) LIMITATIONS.—

(i) OVERALL LIMIT.—The amounts of fees collected under this paragraph for each fiscal year may not exceed, in the aggregate, the amounts paid in calendar year 2000 by carriers described in subparagraph (A) for screening passengers and property, as determined by the Under Secretary.

(ii) PER-CARRIER LIMIT.—The amount of fees collected under this paragraph from an air carrier described in subparagraph (A) for each of fiscal years 2002, 2003, and 2004 may not exceed the amount paid in calendar year 2000 by that carrier for screening passengers and property, as determined by the Under Secretary.

(iii) ADJUSTMENT OF PER-CARRIER LIMIT.—For fiscal year 2005 and subsequent fiscal years, the per-carrier limitation under clause (ii) may be determined by the Under Secretary on the basis of market share or any other appropriate measure in lieu of actual screening costs in calendar year 2000.

(iv) FINALITY OF DETERMINATIONS.—Determinations of the Under Secretary under this subparagraph are not subject to judicial review except for estimates and additional collections made pursuant to the appropriation for Aviation Security in Public Law 108–334: *Provided*, That such judicial review shall be pursuant to section 46110 of title 49, United States Code: *Provided further*, That such judicial review shall be limited only to additional amounts collected by the Secretary before October 1, 2007.

(C) SPECIAL RULE FOR FISCAL YEAR 2002.—The amount of fees collected under this paragraph from any carrier for fiscal year 2002 may not exceed the amounts paid by that carrier for screening passengers and property for a period of time in calendar year 2000 proportionate to the period of time in fiscal year 2002 during which fees are collected under this paragraph.

(b) SCHEDULE OF FEES.—In imposing fees under subsection (a), the Under Secretary shall ensure

that the fees are reasonably related to the Transportation Security Administration's costs of providing services rendered.

(c) LIMITATION ON FEE.—Fees imposed under subsection (a)(1) may not exceed $2.50 per enplanement in air transportation or intrastate air transportation that originates at an airport in the United States, except that the total amount of such fees may not exceed $5.00 per one-way trip.

(d) IMPOSITION OF FEE.—

(1) IN GENERAL.—Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Under Secretary shall impose the fee under subsection (a)(1), and may impose a fee under subsection (a)(2), through the publication of notice of such fee in the Federal Register and begin collection of the fee within 60 days of the date of enactment of this Act, or as soon as possible thereafter.

(2) SPECIAL RULES PASSENGER FEES.—A fee imposed under subsection (a)(1) through the procedures under subsection (d) shall apply only to tickets sold after the date on which such fee is imposed. If a fee imposed under subsection (a)(1) through the procedures under subsection (d) on transportation of a passenger of a carrier described in subsection (a)(1) is not collected from the passenger, the amount of the fee shall be paid by the carrier.

(3) SUBSEQUENT MODIFICATION OF FEE.—After imposing a fee in accordance with paragraph (1), the Under Secretary may modify, from time to time through publication of notice in the Federal Register, the imposition or collection of such fee, or both.

(4) LIMITATION ON COLLECTION.—No fee may be collected under this section, other than subsection (i), except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act or in section 44923.

(e) ADMINISTRATION OF FEES.—

(1) FEES PAYABLE TO UNDER SECRETARY.—All fees imposed and amounts collected under this section are payable to the Under Secretary.

(2) FEES COLLECTED BY AIR CARRIER.—A fee imposed under subsection (a)(1) shall be collected by the air carrier or foreign air carrier that sells a ticket for transportation described in subsection (a)(1).

(3) DUE DATE FOR REMITTANCE.—A fee collected under this section shall be remitted on the last day of each calendar month by the carrier collecting the fee. The amount to be remitted shall be for the calendar month preceding the calendar month in which the remittance is made.

(4) INFORMATION.—The Under Secretary may require the provision of such information as the Under Secretary decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

(5) FEE NOT SUBJECT TO TAX.—For purposes of section 4261 of the Internal Revenue Code of 1986 (26 U.S.C. 4261), a fee imposed under this section shall not be considered to be part of the amount paid for taxable transportation.

(6) COST OF COLLECTING FEE.—No portion of the fee collected under this section may be retained by the air carrier or foreign air carrier for the costs of collecting, handling, or remitting the fee except for interest accruing to the carrier after collection and before remittance.

(f) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this section—

(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

(3) shall remain available until expended.

(g) REFUNDS.—The Under Secretary may refund any fee paid by mistake or any amount paid in excess of that required.

(h) EXEMPTIONS.—The Under Secretary may exempt from the passenger fee imposed under subsection (a)(1) any passenger enplaning at an airport in the United States that does not receive screening services under section 44901 for that segment of the trip for which the passenger does not receive screening.

(i) CHECKPOINT SCREENING SECURITY FUND.—

(1) ESTABLISHMENT.—There is established in the Department of Homeland Security a fund to be known as the ''Checkpoint Screening Security Fund''.

(2) DEPOSITS.—In fiscal year 2008, after amounts are made available under section 44923(h), the next $250,000,000 derived from fees received under subsection (a)(1) shall be available to be deposited in the Fund.

(3) FEES.—The Secretary of Homeland Security shall impose the fee authorized by subsection (a)(1) so as to collect at least $250,000,000 in fiscal year 2008 for deposit into the Fund.

(4) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available until expended by the Administrator of the Transportation Security Administration for the purchase, deployment, installation, research, and development of equipment to improve the ability of security screening personnel at screening checkpoints to detect explosives.

(Added Pub. L. 107–71, title I, § 118(a), Nov. 19, 2001, 115 Stat. 625; amended Pub. L. 108–7, div. I, title III, § 351(b), Feb. 20, 2003, 117 Stat. 420; Pub. L. 108–176, title VI, § 605(b)(1), (2), Dec. 12, 2003, 117 Stat. 2568; Pub. L. 110–53, title XVI, § 1601, Aug. 3, 2007, 121 Stat. 477; Pub. L. 110–161, div. E, title V, § 540, Dec. 26, 2007, 121 Stat. 2079.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsec. (d)(1), probably means the date of enactment of Pub. L. 107–71, which enacted this section and which was approved Nov. 19, 2001.

CODIFICATION

Pub. L. 107–71, title I, § 118(a), Nov. 19, 2001, 115 Stat. 625, which directed the addition of section 44940 at end of subchapter II of chapter 449 without specifying the Code title to be amended, was executed by adding this section at the end of this subchapter, to reflect the probable intent of Congress.

AMENDMENTS

2007—Subsec. (a)(2)(A), (B)(iv). Pub. L. 110–161, which directed amendment of subsec. (a)(2) ''by striking the period in the last sentence of subparagraph (A) and the clause (iv) of subparagraph B and adding the following, 'except for estimates and additional collections made pursuant to the appropriation for Aviation Security in Public Law 108–334: *Provided*, That such judicial review shall be pursuant to section 46110 of title 49, United States Code: *Provided further*, That such judicial review shall be limited only to additional amounts collected by the Secretary before October 1, 2007.' '', was executed by substituting the quoted language directed to be added for the period at the end of last sentence of subpar. (A) and for the period at the end of cl. (iv) of subpar. (B), to reflect the probable intent of Congress.

Subsec. (d)(4). Pub. L. 110–53, § 1601(1), inserted '', other than subsection (i),'' before ''except to''.

Subsec. (i). Pub. L. 110–53, § 1601(2), added subsec. (i).

2003—Subsec. (a)(1). Pub. L. 108–7 inserted at end of concluding provisions ''For purposes of subparagraph (A), the term 'Federal law enforcement personnel' includes State and local law enforcement officers who are deputized under section 44922.''

Subsec. (a)(1)(H), (I). Pub. L. 108–176, § 605(b)(1), added subpars. (H) and (I).

Subsec. (d)(4). Pub. L. 108–176, § 605(b)(2), substituted ''appropriations Act or in section 44923'' for ''appropriations Act''.

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.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44941. Immunity for reporting suspicious activities

(a) IN GENERAL.—Any air carrier or foreign air carrier or any employee of an air carrier or foreign air carrier who makes a voluntary disclosure of any suspicious transaction relevant to a possible violation of law or regulation, relating to air piracy, a threat to aircraft or passenger safety, or terrorism, as defined by section 3077 of title 18, United States Code, to any employee or agent of the Department of Transportation, the Department of Justice, any Federal, State, or local law enforcement officer, or any airport or airline security officer shall not be civilly liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, for such disclosure.

(b) APPLICATION.—Subsection (a) shall not apply to—

(1) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or

(2) any disclosure made with reckless disregard as to the truth or falsity of that disclosure.

(Added Pub. L. 107–71, title I, § 125(a), Nov. 19, 2001, 115 Stat. 631.)

§ 44942. Performance goals and objectives

(a) SHORT TERM TRANSITION.—

(1) IN GENERAL.—Within 180 days after the date of enactment of the Aviation and Transportation Security Act, the Under Secretary for Transportation Security may, in consultation with Congress—

(A) establish acceptable levels of performance for aviation security, including screening operations and access control, and

(B) provide Congress with an action plan, containing measurable goals and milestones, that outlines how those levels of performance will be achieved.

(2) BASICS OF ACTION PLAN.—The action plan shall clarify the responsibilities of the Transportation Security Administration, the Federal Aviation Administration and any other agency or organization that may have a role in ensuring the safety and security of the civil air transportation system.

(b) LONG-TERM RESULTS-BASED MANAGEMENT.—

(1)[1] PERFORMANCE PLAN AND REPORT.—

(A) PERFORMANCE PLAN.—

(i) Each year, consistent with the requirements of the Government Performance and Results Act of 1993 (GPRA), the Secretary and the Under Secretary for Transportation Security shall agree on a performance plan for the succeeding 5 years that establishes measurable goals and objectives for aviation security. The plan shall identify action steps necessary to achieve such goals.

(ii) In addition to meeting the requirements of GPRA, the performance plan should clarify the responsibilities of the Secretary, the Under Secretary for Transportation Security and any other agency or organization that may have a role in ensuring the safety and security of the civil air transportation system.

(B) PERFORMANCE REPORT.—Each year, consistent with the requirements of GPRA, the Under Secretary for Transportation Security shall prepare and submit to Congress an annual report including an evaluation of the extent goals and objectives were met. The report shall include the results achieved during the year relative to the goals established in the performance plan.

(Added Pub. L. 107–71, title I, § 130, Nov. 19, 2001, 115 Stat. 633.)

REFERENCES IN TEXT

The date of enactment of the Aviation and Transportation Security Act, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

The Government Performance and Results Act of 1993, referred to in subsec. (b)(1), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Fi-

[1] So in original. No par. (2) has been enacted.

nance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44943. Performance management system

(a) ESTABLISHING A FAIR AND EQUITABLE SYSTEM FOR MEASURING STAFF PERFORMANCE.—The Under Secretary for Transportation Security shall establish a performance management system which strengthens the organization's effectiveness by providing for the establishment of goals and objectives for managers, employees, and organizational performance consistent with the performance plan.

(b) ESTABLISHING MANAGEMENT ACCOUNTABILITY FOR MEETING PERFORMANCE GOALS.—

(1) IN GENERAL.—Each year, the Secretary and Under Secretary of Transportation for Security shall enter into an annual performance agreement that shall set forth organizational and individual performance goals for the Under Secretary.

(2) GOALS.—Each year, the Under Secretary and each senior manager who reports to the Under Secretary shall enter into an annual performance agreement that sets forth organization and individual goals for those managers. All other employees hired under the authority of the Under Secretary shall enter into an annual performance agreement that sets forth organization and individual goals for those employees.

(c) PERFORMANCE-BASED SERVICE CONTRACTING.—To the extent contracts, if any, are used to implement the Aviation Security Act, the Under Secretary for Transportation Security shall, to the extent practical, maximize the use of performance-based service contracts. These contracts should be consistent with guidelines published by the Office of Federal Procurement Policy.

(Added Pub. L. 107–71, title I, § 130, Nov. 19, 2001, 115 Stat. 634.)

REFERENCES IN TEXT

The Aviation Security Act, referred to in subsec. (c), probably means the Aviation and Transportation Security Act, Pub. L. 107–71, Nov. 19, 2001, 115 Stat. 597. For complete classification of this Act to the Code, see Short Title of 2001 Amendment note set out under section 40101 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44944. Voluntary provision of emergency services

(a) PROGRAM FOR PROVISION OF VOLUNTARY SERVICES.—

(1) PROGRAM.—The Under Secretary of Transportation for Transportation Security shall carry out a program to permit qualified law enforcement officers, firefighters, and emergency medical technicians to provide emergency services on commercial air flights during emergencies.

(2) REQUIREMENTS.—The Under Secretary shall establish such requirements for qualifications of providers of voluntary services under the program under paragraph (1), including training requirements, as the Under Secretary considers appropriate.

(3) CONFIDENTIALITY OF REGISTRY.—If as part of the program under paragraph (1) the Under Secretary requires or permits registration of law enforcement officers, firefighters, or emergency medical technicians who are willing to provide emergency services on commercial flights during emergencies, the Under Secretary shall take appropriate actions to ensure that the registry is available only to appropriate airline personnel and otherwise remains confidential.

(4) CONSULTATION.—The Under Secretary shall consult with appropriate representatives of the commercial airline industry, and organizations representing community-based law enforcement, firefighters, and emergency medical technicians, in carrying out the program under paragraph (1), including the actions taken under paragraph (3).

(b) EXEMPTION FROM LIABILITY.—An individual shall not be liable for damages in any action brought in a Federal or State court that arises from an act or omission of the individual in providing or attempting to provide assistance in the case of an in-flight emergency in an aircraft of an air carrier if the individual meets such qualifications as the Under Secretary shall prescribe for purposes of this section.

(c) EXCEPTION.—The exemption under subsection (b) shall not apply in any case in which an individual provides, or attempts to provide, assistance described in that paragraph in a manner that constitutes gross negligence or willful misconduct.

(Added Pub. L. 107–71, title I, § 131(a), Nov. 19, 2001, 115 Stat. 635.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic

Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CONSTRUCTION

Pub. L. 107–71, title I, § 131(c), Nov. 19, 2001, 115 Stat. 635, provided that: ''Nothing in this section [enacting this section] may be construed to require any modification of regulations of the Department of Transportation governing the possession of firearms while in aircraft or air transportation facilities or to authorize the possession of a firearm in an aircraft or any such facility not authorized under those regulations.''

[For definitions of ''aircraft'' and ''air transportation'' used in section 131(c) of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.]

§ 44945. Disposition of unclaimed money

Notwithstanding section 3302 of title 31, unclaimed money recovered at any airport security checkpoint shall be retained by the Transportation Security Administration and shall remain available until expended for the purpose of providing civil aviation security as required in this chapter.

(Added Pub. L. 108–334, title V, § 515(a), Oct. 18, 2004, 118 Stat. 1317.)

ANNUAL REPORT

Pub. L. 108–334, title V, § 515(b), Oct. 18, 2004, 118 Stat. 1318, provided that: ''Not later than 180 days after the date of enactment of this Act [Oct. 18, 2004] and annually thereafter, the Administrator of the Transportation Security Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives; the Committee on Appropriations of the House of Representatives; the Committee on Commerce, Science and Transportation of the Senate; and the Committee on Appropriations of the Senate, a report that contains a detailed description of the amount of unclaimed money recovered in total and at each individual airport, and specifically how the unclaimed money is being used to provide civil aviation security.''

CHAPTER 451—ALCOHOL AND CONTROLLED SUBSTANCES TESTING

Sec.
45101. Definition.
45102. Alcohol and controlled substances testing programs.
45103. Prohibited service.
45104. Testing and laboratory requirements.
45105. Rehabilitation.
45106. Relationship to other laws, regulations, standards, and orders.
45107. Transportation Security Administration.

AMENDMENTS

2001—Pub. L. 107–71, title I, § 139(5), Nov. 19, 2001, 115 Stat. 641, added item 45107.

§ 45101. Definition

In this chapter, ''controlled substance'' means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1221.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45101	49 App.:1434(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(f); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 956.

§ 45102. Alcohol and controlled substances testing programs

(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS.—(1) In the interest of aviation safety, the Administrator of the Federal Aviation Administration shall prescribe regulations that establish a program requiring air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crew members, airport security screening personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of a controlled substance in violation of law or a United States Government regulation; and to conduct reasonable suspicion, random, and post-accident testing of airmen, crew members, airport security screening personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit air carriers and foreign air carriers to conduct preemployment testing of airmen, crew members, airport security screening personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol.

(2) When the Administrator considers it appropriate in the interest of safety, the Administrator may prescribe regulations for conducting periodic recurring testing of airmen, crewmembers, airport security screening personnel, and other air carrier employees responsible for safety-sensitive functions for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(b) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION.—(1) The Administrator shall establish a program of preemployment, reasonable suspicion, random, and post-accident testing for the use of a controlled substance in violation of law or a United States Government regulation for employees of the Administration whose duties include responsibility for safety-sensitive functions and shall establish a program of reasonable suspicion, random, and post-accident testing for the use of alcohol in violation of law or a United States Government regulation for such employees. The Administrator may establish a program of preemployment testing for the use of alcohol for such employees.

(2) When the Administrator considers it appropriate in the interest of safety, the Administrator may prescribe regulations for conducting periodic recurring testing of employees of the Administration responsible for safety-sensitive functions for use of alcohol or a controlled substance in violation of law or a Government regulation.

(c) SANCTIONS.—In prescribing regulations under the programs required by this section, the

Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to an individual referred to in this section, or the disqualification or dismissal of the individual, under this chapter when a test conducted and confirmed under this chapter indicates the individual has used alcohol or a controlled substance in violation of law or a Government regulation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1221; Pub. L. 104–59, title III, § 342(d), Nov. 28, 1995, 109 Stat. 609; Pub. L. 107–71, title I, § 139(1), Nov. 19, 2001, 115 Stat. 640.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45102(a)	49 App.:1434(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(a); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 953.
45102(b)	49 App.:1434(a)(2).	
45102(c)	49 App.:1434(a)(3).	

In subsections (a)(2) and (b)(2), the word ''also'' is omitted as surplus.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71 substituted ''personnel'' for ''contract personnel'' wherever appearing.

1995—Subsec. (a)(1). Pub. L. 104–59, § 342(d)(1), added par. (1) and struck out former par. (1) which read as follows: ''In the interest of aviation safety, the Administrator of the Federal Aviation Administration shall prescribe regulations not later than October 28, 1992, that establish a program requiring air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation.''

Subsec. (b)(1). Pub. L. 104–59, § 342(d)(2), added par. (1) and struck out former par. (1) which read as follows: ''The Administrator shall establish a program of preemployment, reasonable suspicion, random, and post-accident testing for the use of alcohol or a controlled substance in violation of law or a Government regulation for employees of the Administration whose duties include responsibility for safety-sensitive functions.''

RULEMAKING ON RANDOM TESTING FOR PROHIBITED DRUGS

Pub. L. 103–305, title V, § 501, Aug. 23, 1994, 108 Stat. 1594, provided that: ''Not later than 180 days after the date of the enactment of this Act [Aug. 23, 1994], the Secretary shall complete a rulemaking proceeding and issue a final decision on whether there should be a reduction in the annualized rate now required by the Secretary of random testing for prohibited drugs for personnel engaged in aviation activities.''

§ 45103. Prohibited service

(a) USE OF ALCOHOL OR A CONTROLLED SUBSTANCE.—An individual may not use alcohol or a controlled substance after October 28, 1991, in violation of law or a United States Government regulation and serve as an airman, crewmember, airport security screening employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator of the Federal Aviation Administration), or employee of the Administration with responsibility for safety-sensitive functions.

(b) REHABILITATION REQUIRED TO RESUME SERVICE.—Notwithstanding subsection (a) of this section, an individual found to have used alcohol or a controlled substance after October 28, 1991, in violation of law or a Government regulation may serve as an airman, crewmember, airport security screening employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator), or employee of the Administration with responsibility for safety-sensitive functions only if the individual completes a rehabilitation program described in section 45105 of this title.

(c) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—An individual who served as an airman, crewmember, airport security screening employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator), or employee of the Administration with responsibility for safety-sensitive functions and who was found by the Administrator to have used alcohol or a controlled substance after October 28, 1991, in violation of law or a Government regulation may not carry out the duties related to air transportation that the individual carried out before the finding of the Administrator if the individual—

(1) used the alcohol or controlled substance when on duty;

(2) began or completed a rehabilitation program described in section 45105 of this title before using the alcohol or controlled substance; or

(3) refuses to begin or complete a rehabilitation program described in section 45105 of this title after a finding by the Administrator under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1222; Pub. L. 107–71, title I, § 139(2), Nov. 19, 2001, 115 Stat. 640.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45103(a)	49 App.:1434(b)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(b); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 954.
45103(b)	49 App.:1434(b)(2).	
45103(c)	49 App.:1434(b)(3).	

In subsection (b), the words ''Notwithstanding subsection (a) of this section'' are added for clarity.

AMENDMENTS

2001—Pub. L. 107–71 substituted ''screening employee'' for ''screening contract employee'' wherever appearing.

§ 45104. Testing and laboratory requirements

In carrying out section 45102 of this title, the Administrator of the Federal Aviation Administration shall develop requirements that—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances

testing and laboratory procedures to be applied in carrying out this chapter, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this chapter;

(3) require that a laboratory involved in controlled substances testing under this chapter have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a United States Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this chapter; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1222.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45104	49 App.:1434(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(d); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 955.

In this section, the word ''samples'' is omitted as surplus.

In clause (2), before subclause (A), the word ''subsequent'' is omitted as surplus.

In clause (3), the words ''of any individual'' are omitted as surplus.

In clause (4), the words ''by any individual'' are omitted as surplus.

In clause (5), the word ''tested'' is substituted for ''assayed'' for consistency. The words ''2d confirmation test'' are substituted for ''independent test'' for clarity and consistency.

In clause (6), the word ''Secretary'' is substituted for ''Department'' for consistency in the revised title and with other titles of the United States Code.

§ 45105. Rehabilitation

(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS.—The Administrator of the Federal Aviation Administration shall prescribe regulations establishing requirements for rehabilitation programs that at least provide for the identification and opportunity for treatment of employees of air carriers and foreign air carriers referred to in section 45102(a)(1) of this title who need assistance in resolving problems with the use of alcohol or a controlled substance in violation of law or a United States Government regulation. Each air carrier and foreign air carrier is encouraged to make such a program available to all its employees in addition to the employees referred to in section 45102(a)(1). The Administrator shall decide on the circumstances under which employees shall be required to participate in a program. This subsection does not prevent an air carrier or foreign air carrier from establishing a program under this subsection in cooperation with another air carrier or foreign air carrier.

(b) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION.—The Administrator shall establish and maintain a rehabilitation program that at least provides for the identification and opportunity for treatment of employees of the Administration whose duties include responsibility for safety-sensitive functions who need assistance in resolving problems with the use of alcohol or a controlled substance.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1223; Pub. L. 103–429, § 6(58), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45105(a)	49 App.:1434(c)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(c); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 954.
45105(b)	49 App.:1434(c)(2).	

In subsection (a), the words ''of air carriers and foreign air carriers'' are added for clarity.

PUB. L. 103–429

This amends 49:45105(a) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1224).

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429 substituted ''section 45102(a)(1)'' for ''section 45102(a)(1)(A)'' in second sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 45106. Relationship to other laws, regulations, standards, and orders

(a) EFFECT ON STATE AND LOCAL GOVERNMENT LAWS, REGULATIONS, STANDARDS, OR ORDERS.—A State or local government may not prescribe, issue, or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this chapter. However, a regulation prescribed under this chapter does not preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(b) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS.—(1) In prescribing regulations under this chapter, the Administrator of the Federal Aviation Administration—

(A) shall establish only requirements applicable to foreign air carriers that are consistent with international obligations of the United States; and

(B) shall consider applicable laws and regulations of foreign countries.

(2) The Secretaries of State and Transportation jointly shall request the governments of foreign countries that are members of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit crewmembers in international civil aviation from using alcohol or a controlled substance in violation of law or a United States Government regulation.

(c) OTHER REGULATIONS ALLOWED.—This section does not prevent the Administrator from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by airmen, crewmembers, airport security screening employees, air carrier employees responsible for safety-sensitive functions (as decided by the Administrator), or employees of the Administration with responsibility for safety-sensitive functions.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1224; Pub. L. 107–71, title I, § 139(3), Nov. 19, 2001, 115 Stat. 640.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45106(a)	49 App.:1434(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(e); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 956.
45106(b)	49 App.:1434(e)(3).	
45106(c)	49 App.:1434(e)(2).	

In subsection (a), the word ''prescribe'' is substituted for ''adopt'' for consistency in the revised title and with other titles of the United States Code. The word ''rule'' is omitted as being synonymous with ''regulation''. The word ''ordinance'' is omitted as being included in ''law'' and ''regulation''. The words ''actual'' and ''whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public'' are omitted as surplus.

In subsection (c) the word ''prevent'' is substituted for ''restrict the discretion of'' to eliminate unnecessary words.

AMENDMENTS

2001—Subsec. (c). Pub. L. 107–71 substituted ''screening employees'' for ''screening contract employees''.

§ 45107. Transportation Security Administration

(a) TRANSFER OF FUNCTIONS RELATING TO TESTING PROGRAMS WITH RESPECT TO AIRPORT SECURITY SCREENING PERSONNEL.—The authority of the Administrator of the Federal Aviation Administration under this chapter with respect to programs relating to testing of airport security screening personnel are transferred to the Under Secretary of Transportation for Security. Notwithstanding section 45102(a), the regulations prescribed under section 45102(a) shall require testing of such personnel by their employers instead of by air carriers and foreign air carriers.

(b) APPLICABILITY OF CHAPTER WITH RESPECT TO EMPLOYEES OF ADMINISTRATION.—The provisions of this chapter that apply with respect to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions shall apply with respect to employees of the Transportation Security Administration whose duties include responsibility for security-sensitive functions. The Under Secretary of Transportation for Security, the Transportation Security Administration, and employees of the Transportation Security Administration whose duties include responsibility for security-sensitive functions shall be subject to and comply with such provisions in the same manner and to the same extent as the Administrator of the Federal Aviation Administration, the Federal Aviation Administration, and employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions, respectively.

(Added Pub. L. 107–71, title I, § 139(4), Nov. 19, 2001, 115 Stat. 640.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CHAPTER 453—FEES

Sec.
45301. General provisions.
45302. Fees involving aircraft not providing air transportation.
45303. Administrative provisions.
45304. Maximum fees for private person services.

AMENDMENTS

1996—Pub. L. 104–264, title II, §§ 273(b), 276(b), Oct. 9, 1996, 110 Stat. 3240, 3248, substituted ''General provisions'' for ''Authority to impose fees'' in item 45301, added items 45303 and 45304, and struck out former item 45303 ''Maximum fees for private person services''.

§ 45301. General provisions

(a) SCHEDULE OF FEES.—The Administrator shall establish a schedule of new fees, and a col-

lection process for such fees, for the following services provided by the Administration:

(1) Air traffic control and related services provided to aircraft other than military and civilian aircraft of the United States government[1] or of a foreign government that neither take off from, nor land in, the United States.

(2) Services (other than air traffic control services) provided to a foreign government or services provided to any entity obtaining services outside the United States, except that the Administrator shall not impose fees in any manner for production-certification related service performed outside the United States pertaining to aeronautical products manufactured outside the United States.

(b) LIMITATIONS.—

(1) AUTHORIZATION AND IMPACT CONSIDERATIONS.—In establishing fees under subsection (a), the Administrator—

(A) is authorized to recover in fiscal year 1997 $100,000,000; and

(B) shall ensure that each of the fees required by subsection (a) is reasonably related to the Administration's costs, as determined by the Administrator, of providing the service rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States. The Determination[2] of such costs by the Administrator is not subject to judicial review.

(2) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register an initial fee schedule and associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.

(c) USE OF EXPERTS AND CONSULTANTS.—In developing the system, the Administrator may consult with such nongovernmental experts as the Administrator may employ and the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary. Notwithstanding any other provision of law to the contrary, the Administrator may retain such experts under a contract awarded on a basis other than a competitive basis and without regard to any such provisions requiring competitive bidding or precluding sole source contract authority.

(d) PRODUCTION-CERTIFICATION RELATED SERVICE DEFINED.—In this section, the term ''production-certification related service'' has the meaning given that term in appendix C of part 187 of title 14, Code of Federal Regulations.

(Added Pub. L. 104–264, title II, § 273(a), Oct. 9, 1996, 110 Stat. 3239; amended Pub. L. 106–181, title VII, § 719, Apr. 5, 2000, 114 Stat. 163; Pub. L. 107–71, title I, § 119(d), Nov. 19, 2001, 115 Stat. 629.)

PRIOR PROVISIONS

A prior section 45301, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103–305, title II, § 209, Aug. 23, 1994, 108 Stat. 1589; Pub. L. 104–287, § 5(76), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 105–102, § 3(d)(1)(C), Nov. 20, 1997, 111 Stat. 2215, related to authority to impose fees, prior to repeal by Pub. L. 104–264, title II, §§ 203, 273(a), Oct. 9, 1996, 110 Stat. 3227, 3239, effective 30 days after Oct. 9, 1996.

AMENDMENTS

2001—Subsec. (b)(1)(B). Pub. L. 107–71 substituted ''reasonably'' for ''directly'' and ''Administration's costs, as determined by the Administrator,'' for ''Administration's costs'' and inserted ''The Determination of such costs by the Administrator is not subject to judicial review.'' at end.

2000—Subsec. (a)(2). Pub. L. 106–181, § 719(1), added par. (2) and struck out former par. (2) which read as follows: ''Services (other than air traffic control services) provided to a foreign government.''

Subsec. (d). Pub. L. 106–181, § 719(2), added subsec. (d).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

OVERFLIGHT FEES

Pub. L. 108–176, title II, § 229, Dec. 12, 2003, 117 Stat. 2532, provided that:

''(a) ADOPTION AND LEGALIZATION OF CERTAIN RULES.—

''(1) APPLICABILITY AND EFFECT OF CERTAIN LAW.—Notwithstanding section 141(d)(1) of the Aviation and Transportation Security Act [Pub. L. 107–71] (49 U.S.C. 44901 note), section 45301(b)(1)(B) of title 49, United States Code, is deemed to apply to and to have effect with respect to the authority of the Administrator of the Federal Aviation Administration with respect to the interim final rule and final rule, relating to overflight fees, issued by the Administrator on May 30, 2000, and August 13, 2001, respectively.

''(2) ADOPTION AND LEGALIZATION.—The interim final rule and final rule referred to in subsection (a), including the fees issued pursuant to those rules, are adopted, legalized, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically adopted, authorized, and directed as of the date those rules were originally issued.

''(3) FEES TO WHICH APPLICABLE.—This subsection applies to fees assessed after November 19, 2001, and before April 8, 2003, and fees collected after the requirements of subsection (b) have been met.

''(b) DEFERRED COLLECTION OF FEES.—The Administrator shall defer collecting fees under section 45301(a)(1) of title 49, United States Code, until the Administrator (1) reports to Congress responding to the issues raised by the court in Air Transport Association of Canada v. Federal Aviation Administration and Administrator, FAA, decided on April 8, 2003, and (2) consults with users and other interested parties regard-

[1] So in original. Probably should be capitalized.

[2] So in original. Probably should not be capitalized.

ing the consistency of the fees established under such section with the international obligations of the United States.

''(c) ENFORCEMENT.—The Administrator shall take an appropriate enforcement action under subtitle VII of title 49, United States Code, against any user that does not pay a fee under section 45301(a)(1) of such title.''

§ 45302. Fees involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL AUTHORITY AND MAXIMUM FEES.—The Administrator of the Federal Aviation Administration may impose fees to pay for the costs of issuing airman certificates to pilots and certificates of registration of aircraft and processing forms for major repairs and alterations of fuel tanks and fuel systems of aircraft. The following fees may not be more than the amounts specified:

(1) $12 for issuing an airman's certificate to a pilot.

(2) $25 for registering an aircraft after the transfer of ownership.

(3) $15 for renewing an aircraft registration.

(4) $7.50 for processing a form for a major repair or alteration of a fuel tank or fuel system of an aircraft.

(c) ADJUSTMENTS.—The Administrator shall adjust the maximum fees established by subsection (b) of this section for changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor.

(d) CREDIT TO ACCOUNT AND AVAILABILITY.—Money collected from fees imposed under this section shall be credited to the account in the Treasury from which the Administrator incurs expenses in carrying out chapter 441 and sections 44701–44716 of this title (except sections 44701(c), 44703(f)(2),[1] and 44713(d)(2)). The money is available to the Administrator to pay expenses for which the fees are collected.

(e) EFFECTIVE DATE.—A fee may not be imposed under this section before the date on which the regulations prescribed under sections 44111(d), 44703(f)(2),[1] and 44713(d)(2) of this title take effect.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103–429, § 6(59), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45302(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
45302(b), (c)	49 App.:1354(f)(1)–(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 313(f); added Nov. 18, 1988, Pub. L. 100–690, § 7207(c)(1), 102 Stat. 4427.
45302(d)	49 App.:1354(f)(4).	

In subsection (b), before clause (1), the text of 49 App.:1354(f)(3) is omitted as obsolete because the final regulations are effective. The word ''impose'' is substituted for ''establish and collect'' for consistency.

In subsection (d), the words ''Money collected from fees imposed'' are substituted for ''The amount of fees collected'' for clarity and consistency.

[1] See References in Text note below.

PUB. L. 103–429

This amends 49:45302 because the final regulations are not yet effective.

REFERENCES IN TEXT

Section 44703(f)(2) of this title, referred to in subsecs. (d) and (e), was redesignated section 44703(g)(2) by Pub. L. 106–181, title VII, § 715(1), Apr. 5, 2000, 114 Stat. 162.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–429 added subsec. (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

INSPECTOR GENERAL AUDIT

Pub. L. 100–690, title VII, § 7207(c)(4), Nov. 18, 1988, 102 Stat. 4428, as amended by Pub. L. 104–66, title II, § 2041, Dec. 21, 1995, 109 Stat. 728, provided that: ''During the 5-year period beginning after the date on which fees are first collected under section 313(f) of the Federal Aviation Act of 1958 [see subsec. (b) of this section], the Department of Transportation Inspector General shall conduct an annual audit of the collection and use of such fees for the purpose of ensuring that such fees do not exceed the costs for which they are collected and submit to Congress a report on the results of such audit.''

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 30th item on page 4 identifies a reporting provision which, as subsequently amended, is contained in section 7207(c)(4) of Pub. L. 100–690, set out as a note above), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.]

§ 45303. Administrative provisions

(a) FEES PAYABLE TO ADMINISTRATOR.—All fees imposed and amounts collected under this chapter for services performed, or materials furnished, by the Federal Aviation Administration are payable to the Administrator of the Federal Aviation Administration.

(b) REFUNDS.—The Administrator may refund any fee paid by mistake or any amount paid in excess of that required.

(c) RECEIPTS CREDITED TO ACCOUNT.—Notwithstanding section 3302 of title 31, all fees and amounts collected by the Administration, except insurance premiums and other fees charged for the provision of insurance and deposited in the Aviation Insurance Revolving Fund and interest earned on investments of such Fund, and except amounts which on September 30, 1996, are required to be credited to the general fund of the Treasury (whether imposed under this section or not)—

(1) shall be credited to a separate account established in the Treasury and made available for Administration activities;

(2) shall be available immediately for expenditure but only for congressionally authorized and intended purposes; and

(3) shall remain available until expended.

(d) ANNUAL BUDGET REPORT BY ADMINISTRATOR.—The Administrator shall, on the same day each year as the President submits the annual budget to Congress, provide to the Committee on Commerce, Science, and Transportation

of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(1) a list of fee collections by the Administration during the preceding fiscal year;

(2) a list of activities by the Administration during the preceding fiscal year that were supported by fee expenditures and appropriations;

(3) budget plans for significant programs, projects, and activities of the Administration, including out-year funding estimates;

(4) any proposed disposition of surplus fees by the Administration; and

(5) such other information as those committees consider necessary.

(e) DEVELOPMENT OF COST ACCOUNTING SYSTEM.—The Administration shall develop a cost accounting system that adequately and accurately reflects the investments, operating and overhead costs, revenues, and other financial measurement and reporting aspects of its operations.

(f) COMPENSATION TO CARRIERS FOR ACTING AS COLLECTION AGENTS.—The Administration shall prescribe regulations to ensure that any air carrier required, pursuant to the Air Traffic Management System Performance Improvement Act of 1996 or any amendments made by that Act, to collect a fee imposed on another party by the Administrator may collect from such other party an additional uniform amount that the Administrator determines reflects the necessary and reasonable expenses (net of interest accruing to the carrier after collection and before remittance) incurred in collecting and handling the fee.

(Added Pub. L. 104–264, title II, § 276(a)(2), Oct. 9, 1996, 110 Stat. 3247.)

REFERENCES IN TEXT

The Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (f), is title II of Pub. L. 104–264, Oct. 9, 1996, 110 Stat. 3227. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 40101 of this title and Tables.

PRIOR PROVISIONS

A prior section 45303 was renumbered section 45304 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§ 45304. Maximum fees for private person services

The Administrator of the Federal Aviation Administration may establish maximum fees that private persons may charge for services performed under a delegation to the person under section 44702(d) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1225, § 45303; renumbered § 45304, Pub. L. 104–264, title II, § 276(a)(1), Oct. 9, 1996, 110 Stat. 3247.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45303	49 App.:1355(a) (last sentence related to fees). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, § 314(a) (last sentence related to fees), 72 Stat. 754. Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, the word ''Administrator'' in section 314(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 754) is retained on authority of 49:106(g). The words ''services performed under a delegation to the person under section 44702(d) of this title'' are substituted for ''their services'' because of the restatement.

SUBPART IV—ENFORCEMENT AND PENALTIES

CHAPTER 461—INVESTIGATIONS AND PROCEEDINGS

Sec.
46101. Complaints and investigations.
46102. Proceedings.
46103. Service of notice, process, and actions.
46104. Evidence.
46105. Regulations and orders.
46106. Enforcement by the Department of Transportation.
46107. Enforcement by the Attorney General.
46108. Enforcement of certificate requirements by interested persons.
46109. Joinder and intervention.
46110. Judicial review.
46111. Certificate actions in response to a security threat.

AMENDMENTS

2003—Pub. L. 108–176, title VI, § 601(b), Dec. 12, 2003, 117 Stat. 2563, added item 46111.

2001—Pub. L. 107–71, title I, § 140(b)(8), Nov. 19, 2001, 115 Stat. 641, substituted ''Department of Transportation'' for ''Secretary of Transportation and Administrator of the Federal Aviation Administration'' in item 46106.

§ 46101. Complaints and investigations

(a) GENERAL.—(1) A person may file a complaint in writing with the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) about a person violating this part or a requirement prescribed under this part. Except as provided in subsection (b) of this section, the Secretary, Under Secretary, or Administrator shall investigate the complaint if a reasonable ground appears to the Secretary, Under Secretary, or Administrator for the investigation.

(2) On the initiative of the Secretary, Under Secretary, or Administrator, as appropriate, the Secretary, Under Secretary, or Administrator may conduct an investigation, if a reasonable ground appears to the Secretary, Under Secretary, or Administrator for the investigation, about—

(A) a person violating this part or a requirement prescribed under this part; or

(B) any question that may arise under this part.

(3) The Secretary of Transportation, Under Secretary, or Administrator may dismiss a complaint without a hearing when the Secretary, Under Secretary, or Administrator is of the opinion that the complaint does not state facts that warrant an investigation or action.

(4) After notice and an opportunity for a hearing and subject to section 40105(b) of this title, the Secretary of Transportation, Under Secretary, or Administrator shall issue an order to compel compliance with this part if the Secretary, Under Secretary, or Administrator finds in an investigation under this subsection that a person is violating this part.

(b) COMPLAINTS AGAINST MEMBERS OF ARMED FORCES.—The Secretary of Transportation, Under Secretary, or Administrator shall refer a complaint against a member of the armed forces of the United States performing official duties to the Secretary of the department concerned for action. Not later than 90 days after receiving the complaint, the Secretary of that department shall inform the Secretary of Transportation, Under Secretary, or Administrator of the action taken on the complaint, including any corrective or disciplinary action taken.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1226; Pub. L. 107–71, title I, § 140(b)(1)–(3), Nov. 19, 2001, 115 Stat. 641.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46101(a)(1) ..	49 App.:1482(a) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, § 1002(a), (b), 72 Stat. 788.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46101(a)(2) ..	49 App.:1482(b).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(a)(3) ..	49 App.:1482(a) (3d sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(a)(4) ..	49 App.:1482(c).	Aug. 23, 1958, Pub. L. 85–726, § 1002(c), 72 Stat. 789; Feb. 15, 1980, Pub. L. 96–192, § 25, 94 Stat. 47.
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(b)	49 App.:1482(a) (4th, last sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsection (a)(1), the words ''the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) about a person violating this part or a requirement prescribed under this part'' are substituted for ''the Secretary of Transportation or the Board, as to matters within their respective jurisdictions . . . with respect to anything done or omitted to be done by any person in contravention of any provisions of this chapter, or of any requirement established pursuant thereto'' for clarity and because of the restatement. The words ''Except as provided in subsection (b) of this section'' are added because of the restatement of the source provisions in subsection (b) of this section. The words ''If the person complained against shall not satisfy the complaint and'' are omitted as surplus.

In subsection (a)(2), before clause (A), the words ''the Secretary of Transportation or the Administrator, as appropriate'' are substituted for ''The Secretary of Transportation or Board, with respect to matters within their respective jurisdictions'' to eliminate unnecessary words. The words ''if a reasonable ground appears to the Secretary or Administrator for the investigation'' are substituted for 49 App.:1482(b) (last sentence) for clarity and to eliminate unnecessary words. Clause (A) is substituted for ''in any case and as to any matter or thing within their respective jurisdictions, concerning which complaint is authorized to be made to or before the Secretary of Transportation or Board by any provision of this chapter . . . or relating to the enforcement of any of the provisions of this chapter'' for clarity and to eliminate unnecessary words.

In subsection (a)(4), the words ''an opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code. The words ''compel compliance with this part'' are substituted for ''compel such person to comply therewith'' for clarity. The words ''in an investigation under this subsection'' are substituted for ''in any investigation instituted upon complaint or upon their own initiative'' to eliminate unnecessary words. The words ''is violating this part'' are substituted for ''has failed to comply with any provision of this chapter or any requirement established pursuant thereto'' for clarity and to eliminate unnecessary words. The words ''with respect to matters within their jurisdiction'' are omitted as unnecessary because of the restatement.

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–71, § 140(b)(1), (2), inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' after ''(or'' and substituted '', Under Secretary, or Administrator'' for ''or Administrator'' in two places.

Subsec. (a)(2). Pub. L. 107–71, § 140(b)(2), (3), in introductory provisions, substituted '', Under Secretary, or Administrator, as'' for ''of Transportation or the Administrator, as'' and substituted '', Under Secretary, or Administrator'' for ''or Administrator'' in two places.

Subsec. (a)(3), (4). Pub. L. 107–71, § 140(b)(2), substituted '', Under Secretary, or Administrator'' for ''or Administrator'' wherever appearing.

Subsec. (b). Pub. L. 107–71, § 140(b)(2), substituted '', Under Secretary, or Administrator'' for ''or Administrator'' in two places.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46102. Proceedings

(a) CONDUCTING PROCEEDINGS.—Subject to subchapter II of chapter 5 of title 5, the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may conduct proceedings in a way conducive to justice and the proper dispatch of business.

(b) APPEARANCE.—A person may appear and be heard before the Secretary, the Under Sec-

retary, and the Administrator in person or by an attorney. The Secretary may appear and participate as an interested party in a proceeding the Administrator conducts under section 40113(a) of this title.

(c) RECORDING AND PUBLIC ACCESS.—Official action taken by the Secretary, Under Secretary, and Administrator under this part shall be recorded. Proceedings before the Secretary, Under Secretary, and Administrator shall be open to the public on the request of an interested party unless the Secretary, Under Secretary, or Administrator decides that secrecy is required because of national defense.

(d) CONFLICTS OF INTEREST.—The Secretary, the Under Secretary, the Administrator, or an officer or employee of the Administration may not participate in a proceeding referred to in subsection (a) of this section in which the individual has a pecuniary interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1226; Pub. L. 107–71, title I, § 140(b)(1), (2), (4)–(6), Nov. 19, 2001, 115 Stat. 641.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46102(a)	49 App.:1481 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1001, 72 Stat. 788.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46102(b)	49 App.:1481 (3d, 4th sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46102(c)	49 App.:1481 (last sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46102(d)	49 App.:1481 (2d sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsection (a), the cross-reference to chapter 7 of title 5 is omitted as unnecessary.

In subsection (b), the text of 49 App.:1481 (4th sentence words after last comma) is omitted as obsolete. The words ''National Transportation Safety Board'' were substituted for ''Board'' in 49 App.:1481 (4th sentence) because 49 App.:1655(d) transferred all functions, duties, and powers of the Civil Aeronautics Board under titles VI and VII of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775) to the Secretary of Transportation to be carried out through the former National Transportation Safety Board in the Department of Transportation. Title VI includes sections 602 and 609 [49 App.:1422, 1429], that provide for appeals to the Civil Aeronautics Board (subsequently transferred to the National Transportation Safety Board), and section 611(e) [49 App.:1431(e)], that provides for appeals to the National Transportation Safety Board. Under 49 App.:1902(a), the National Transportation Safety Board in the Department of Transportation was replaced by an independent National Transportation Safety Board outside the Department, and 49 App.:1903(a)(9)(A) gave the independent Board the authority to review appeals from actions of the Secretary under 49 App.:1422, 1429, and 1431(e).

In subsection (c), the words ''vote and'' are omitted as surplus.

In subsection (d), the words ''officer or employee of the Administration'' are substituted for ''member'' for clarity and consistency in the revised title and with other titles of the United States Code. The words ''hearing or'' are omitted as surplus. The words ''referred to in subsection (a) of this section'' are added for clarity.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71, § 140(b)(1), inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' after ''(or''.

Subsec. (b). Pub. L. 107–71, § 140(b)(4), substituted '', the Under Secretary, and the Administrator'' for ''and the Administrator''.

Subsec. (c). Pub. L. 107–71, § 140(b)(2), (5), substituted '', Under Secretary, and Administrator'' for ''and Administrator'' in two places and '', Under Secretary, or Administrator'' for ''or Administrator''.

Subsec. (d). Pub. L. 107–71, § 140(b)(6), inserted ''the Under Secretary,'' after ''Secretary,''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46103. Service of notice, process, and actions

(a) DESIGNATING AGENTS.—(1) Each air carrier and foreign air carrier shall designate an agent on whom service of notice and process in a proceeding before, and an action of, the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may be made.

(2) The designation—

(A) shall be in writing and filed with the Secretary, Under Secretary, or Administrator; and

(B) may be changed in the same way as originally made.

(b) SERVICE.—(1) Service may be made—

(A) by personal service;

(B) on a designated agent; or

(C) by certified or registered mail to the person to be served or the designated agent of the person.

(2) The date of service made by certified or registered mail is the date of mailing.

(c) SERVING AGENTS.—Service on an agent designated under this section shall be made at the office or usual place of residence of the agent. If an air carrier or foreign air carrier does not have a designated agent, service may be made by posting the notice, process, or action in the office of the Secretary, Under Secretary, or Administrator.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1227; Pub. L. 107–71, title I, § 140(b)(1), (2), Nov. 19, 2001, 115 Stat. 641.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46103(a)	49 App.:1485(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1005(b), 72 Stat. 794..
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46103(b)	49 App.:1485(c).	Aug. 23, 1958, Pub. L. 85–726, § 1005(c), 72 Stat. 794; restated Aug. 25, 1959, Pub. L. 86–199, 73 Stat. 427.
46103(c)	49 App.:1485(b) (last sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In subsection (a)(1), the words ''in a proceeding before'' are added for clarity. The word ''action'' is substituted for ''orders, decisions, and requirements'' to eliminate unnecessary words. The words ''for and on behalf of said carrier'' are omitted as surplus.

In subsection (a)(2)(B), the words ''from time to time'' are omitted as surplus.

In subsection (b)(1)(B), the words ''in writing for the purpose'' are omitted as surplus.

In subsection (b)(1)(C), the word ''addressed'' is omitted as surplus.

In subsection (b)(2), the word ''date'' is substituted for ''time'' for clarity and consistency.

In subsection (c), the words ''with like effect as if made personally upon such carrier'' are omitted as surplus.

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–71, § 140(b)(1), inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' after ''(or''.

Subsec. (a)(2)(A). Pub. L. 107–71, § 140(b)(2), substituted '', Under Secretary, or Administrator'' for ''or Administrator''.

Subsec. (c). Pub. L. 107–71, § 140(b)(2), substituted '', Under Secretary, or Administrator'' for ''or Administrator''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46104. Evidence

(a) GENERAL.—In conducting a hearing or investigation under this part, the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may—

(1) subpena witnesses and records related to a matter involved in the hearing or investigation from any place in the United States to the designated place of the hearing or investigation;

(2) administer oaths;

(3) examine witnesses; and

(4) receive evidence at a place in the United States the Secretary, Under Secretary, or Administrator designates.

(b) COMPLIANCE WITH SUBPENAS.—If a person disobeys a subpena, the Secretary, the Under Secretary, the Administrator, or a party to a proceeding before the Secretary, Under Secretary, or Administrator may petition a court of the United States to enforce the subpena. A judicial proceeding to enforce a subpena under this section may be brought in the jurisdiction in which the proceeding or investigation is conducted. The court may punish a failure to obey an order of the court to comply with the subpena as a contempt of court.

(c) DEPOSITIONS.—(1) In a proceeding or investigation, the Secretary, Under Secretary, or Administrator may order a person to give testimony by deposition and to produce records. If a person fails to be deposed or to produce records, the order may be enforced in the same way a subpena may be enforced under subsection (b) of this section.

(2) A deposition may be taken before an individual designated by the Secretary, Under Secretary, or Administrator and having the power to administer oaths.

(3) Before taking a deposition, the party or the attorney of the party proposing to take the deposition must give reasonable notice in writing to the opposing party or the attorney of record of that party. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent. Each deposition shall be filed promptly with the Secretary, Under Secretary, or Administrator.

(5) If the laws of a foreign country allow, the testimony of a witness in that country may be taken by deposition—

(A) by a consular officer or an individual commissioned by the Secretary, Under Secretary, or Administrator or agreed on by the parties by written stipulation filed with the Secretary, Under Secretary, or Administrator; or

(B) under letters rogatory issued by a court of competent jurisdiction at the request of the Secretary, Under Secretary, or Administrator.

(d) WITNESS FEES AND MILEAGE AND CERTAIN FOREIGN COUNTRY EXPENSES.—A witness summoned before the Secretary, Under Secretary, or Administrator or whose deposition is taken under this section and the individual taking the deposition are each entitled to the same fee and mileage that the witness and individual would have been paid for those services in a court of the United States. Under regulations of the Secretary, Under Secretary, or Administrator, the Secretary, Under Secretary, or Administrator shall pay the necessary expenses incident to executing, in another country, a commission or letter rogatory issued at the initiative of the Secretary, Under Secretary, or Administrator.

(e) DESIGNATING EMPLOYEES TO CONDUCT HEARINGS.—When designated by the Secretary, Under Secretary, or Administrator, an employee appointed under section 3105 of title 5 may conduct a hearing, subpena witnesses, administer oaths, examine witnesses, and receive evidence at a place in the United States the Secretary, Under Secretary, or Administrator designates. On request of a party, the Secretary, Under Secretary, or Administrator shall hear or receive argument.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1227; Pub. L. 107–71, title I, § 140(b)(1), (2), (6), Nov. 19, 2001, 115 Stat. 641.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46104(a)	49 App.:1354(c) (related to this chapter).	Aug. 23, 1958, Pub. L. 85–726, §§ 313(c) (related to this Act), 1004(a)–(h), 72 Stat. 753, 792.
	49 App.:1484(a) (related to member of the Board), (b) (1st sentence), (c) (1st sentence).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46104(b)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(c) (last sentence), (d).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(1) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (1st, last sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(2) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (2d sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(3) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (3d sentence).	
	49 App.:1655(c)(1).	
46104(c)(4) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(f).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(5) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(g).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(d)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(b) (last sentence), (h).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(e)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(a) (related to examiner).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 313(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g).

Subsection (a)(1) is substituted for ''sign and issue subpenas'', ''shall have the power to require by subpena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation'', and ''The attendance of witnesses, and the production of books, papers, and documents, may be required from any place in the United States, at any designated place of hearing'' in 49 App.:1484 for clarity and consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (b), the words ''petition a court of the United States to enforce the subpena'' are substituted for ''invoke the aid of any court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this section'' in 49 App.:1484(c) to eliminate unnecessary words. The words ''to enforce a subpena under this section'' are substituted for ''in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Board (and produce books, papers, or documents if so ordered) and give evidence touching the matter in question'' in 49 App.:1484(d) to eliminate unnecessary words.

In subsection (c)(1), the words ''pending before it, at any stage of such proceeding or investigation'' in 49 App.:1484(e) are omitted as surplus. The words ''a person to give'' are substituted for ''to be taken'', and the words ''to produce records'' are added, for clarity and consistency. The last sentence is substituted for 49 App.:1484(e) (last sentence) for clarity and consistency and to eliminate unnecessary words.

In subsection (c)(4), the words ''shall be cautioned . . . to testify the whole truth, and shall be carefully examined'' in 49 App.:1484(f) are omitted as surplus. The words ''shall be under oath'' are substituted for ''shall be required to swear (or affirm, if he so requests)'' for consistency and because of 1:1.

In subsection (d), the words ''that the witness and individual would have been'' are added for clarity and consistency in the revised title and with other titles of the Code. The words ''fees, charges, or'' and ''on the subject'' are omitted as surplus.

In subsection (e), the words ''duly . . . for such purpose'' are omitted as surplus. The words ''employee appointed under section 3105 of title 5'' are substituted for ''examiner'', and the words ''subpena witnesses'' are substituted for ''sign and issue subpenas'', for consistency in the revised title and with other titles of the Code. The words ''In all cases heard by an examiner or a single member'' are omitted as surplus.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71, § 140(b)(1), in introductory provisions inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' after ''(or''.

Subsec. (a)(4). Pub. L. 107–71, § 140(b)(2), substituted '', Under Secretary, or Administrator'' for ''or Administrator''.

Subsec. (b). Pub. L. 107–71, § 140(b)(2), (6), inserted ''the Under Secretary,'' after 'Secretary,'' and substituted '', Under Secretary, or Administrator'' for ''or Administrator''.

Subsecs. (c) to (e). Pub. L. 107–71, § 140(b)(2), substituted '', Under Secretary, or Administrator'' for ''or Administrator'' wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46105. Regulations and orders

(a) EFFECTIVENESS OF ORDERS.—Except as provided in this part, a regulation prescribed or order issued by the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) takes effect within a reasonable time prescribed by the Secretary, Under Secretary, or Administrator. The regulation or order remains in effect under its own terms or until superseded. Except as provided in this part, the Secretary, Under Secretary, or Administrator may amend, modify, or suspend an order in the way, and by giving the notice, the Secretary, Under Secretary, or Administrator decides.

(b) CONTENTS AND SERVICE OF ORDERS.—An order of the Secretary, Under Secretary, or Administrator shall include the findings of fact on which the order is based and shall be served on the parties to the proceeding and the persons affected by the order.

(c) EMERGENCIES.—When the Administrator is of the opinion that an emergency exists related to safety in air commerce and requires immediate action, the Administrator, on the initiative of the Administrator or on complaint, may prescribe regulations and issue orders immediately to meet the emergency, with or without notice and without regard to this part and subchapter II of chapter 5 of title 5. The Administrator shall begin a proceeding immediately about an emergency under this subsection and give preference, when practicable, to the proceeding.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1228; Pub. L. 107–71, title I, § 140(b)(1), (2), Nov. 19, 2001, 115 Stat. 641.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46105(a)	49 App.:1485(a) (words before 1st proviso), (d), (e).	Aug. 23, 1958, Pub. L. 85–726, § 1005(a), (d)–(f), 72 Stat. 794.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46105(b)	49 App.:1485(f).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46105(c)	49 App.:1485(a) (provisos).	
	49 App.:1655(c)(1).	

In subsection (a), the words ''under its own terms or until superseded'' are substituted for ''until their further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation'' for clarity and to eliminate unnecessary words. The word ''amend'' is added for consistency in the revised title. The text of 49 App.:1485(e) is omitted as surplus.

In subsection (c), the words ''without complaint'' and ''if he so orders'' are omitted as surplus. The words ''prescribe . . . issue'' are substituted for ''make'' for consistency in the revised title and with other titles of the United States Code. The words ''just and reasonable'' and ''as may be essential in the interest of safety in air commerce'' are omitted as surplus. The words ''without regard to this part and subchapter II of chapter 5 of title 5'' are substituted for ''without answer or other form of pleading by the interested person or persons, and . . . hearing, or the making or filing of a report'' to eliminate unnecessary words. The words ''over all others under this chapter'' are omitted as surplus.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71, § 140(b)(1), (2), inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' after ''(or'' and substituted '', Under Secretary, or Administrator'' for ''or Administrator'' wherever appearing.

Subsec. (b). Pub. L. 107–71, § 140(b)(2), substituted '', Under Secretary, or Administrator'' for ''or Administrator''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46106. Enforcement by the Department of Transportation

The Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may bring a civil action against a person in a district court of the United States to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part. The action may be brought in the judicial district in which the person does business or the violation occurred.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1229; Pub. L. 107–71, title I, § 140(b)(1), (7), Nov. 19, 2001, 115 Stat. 641.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46106	49 App.:1487(a) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, § 1007(a) (related to Administrator and CAB), 72 Stat. 796.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The words ''their duly authorized agents'' are omitted as surplus. The words ''may bring a civil action'' are substituted for ''may apply'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The word ''prescribed'' is added for consistency in the revised title and with other titles of

the Code. The words ''condition, or limitation'' are omitted as being included in ''term''. The text of 49 App.:1487(a) (words after semicolon related to Secretary and CAB) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure (28 App. U.S.C.).

AMENDMENTS

2001—Pub. L. 107–71, § 140(b)(7), substituted ''Department of Transportation'' for ''Secretary of Transportation and Administrator of the Federal Aviation Administration'' in section catchline.

Pub. L. 107–71, § 140(b)(1), inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' after ''(or''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46107. Enforcement by the Attorney General

(a) CIVIL ACTIONS TO ENFORCE SECTION 40106(b).—The Attorney General may bring a civil action in a district court of the United States against a person to enforce section 40106(b) of this title. The action may be brought in the judicial district in which the person does business or the violation occurred.

(b) CIVIL ACTIONS TO ENFORCE THIS PART.—(1) On request of the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator), the Attorney General may bring a civil action in an appropriate court—

(A) to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part; and

(B) to prosecute a person violating this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part.

(2) The costs and expenses of a civil action shall be paid out of the appropriations for the expenses of the courts of the United States.

(c) PARTICIPATION OF SECRETARY, UNDER SECRETARY, OR ADMINISTRATOR.—On request of the Attorney General, the Secretary, Under Secretary, or Administrator, as appropriate, may participate in a civil action under this part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1229; Pub. L. 107–71, title I, § 140(b)(1), (2), Nov. 19, 2001, 115 Stat. 641.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46107(a)	49 App.:1487(a) (related to Attorney General).	Aug. 23, 1958, Pub. L. 85–726, § 1007(a) (related to Attorney General), 72 Stat. 796; Aug. 5, 1974, Pub. L. 93–366, § 108, 88 Stat. 414.
46107(b)	49 App.:1487(b) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §§ 1007(b) (related to Administrator and CAB), 1008 (related to Administrator and CAB), 72 Stat. 796.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46107(c)	49 App.:1488 (related to Secretary and CAB). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In subsection (a), the words ''may bring a civil action'' are substituted for ''may apply'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The text of 49 App.:1487(a) (words after semicolon related to Attorney General) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure.

In subsection (b)(1), before clause (A), the words ''Attorney General'' are substituted for ''any district attorney of the United States to whom the Board or Secretary of Transportation may apply'', and the words ''under the direction of the Attorney General'' are omitted, because of 28:503 and 509. The words ''bring a civil action'' are substituted for ''institute . . . and to prosecute . . . all necessary proceedings'' for consistency in the revised title and with other titles of the Code and rule 2 of the Federal Rules of Civil Procedure. In clauses (A) and (B), the words ''prescribed'' and ''issued'' are added for consistency in the revised title and with other titles of the Code. The words ''condition, or limitation'' are omitted as being included in ''term''.

In subsection (b)(2), the words ''civil action'' are substituted for ''prosecutions'' for consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''civil action'' are substituted for ''proceeding in court'' for consistency in the revised title and with other titles of the Code and rule 2 of the Federal Rules of Civil Procedure.

AMENDMENTS

2001—Subsec. (b)(1). Pub. L. 107–71, § 140(b)(1), in introductory provisions, inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' after ''(or''.

Subsec. (c). Pub. L. 107–71, § 140(b)(2), substituted '', Under Secretary, or Administrator'' for ''or Administrator'' in heading and text.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46108. Enforcement of certificate requirements by interested persons

An interested person may bring a civil action in a district court of the United States against

a person to enforce section 41101(a)(1) of this title. The action may be brought in the judicial district in which the defendant does business or the violation occurred.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1229.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46108	49 App.:1487(a) (related to party in interest).	Aug. 23, 1958, Pub. L. 85–726, § 1007(a) (related to party in interest), 72 Stat. 796.

The words ''interested person'' are substituted for ''party in interest'' for consistency. The words ''may bring a civil action'' are substituted for ''may apply'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The text of 49 App.:1487(a) (words after semicolon related to party in interest) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure.

§ 46109. Joinder and intervention

A person interested in or affected by a matter under consideration in a proceeding before the Secretary of Transportation or civil action to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part may be joined as a party or permitted to intervene in the proceeding or civil action.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1230.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46109	49 App.:1489.	Aug. 23, 1958, Pub. L. 85–726, § 1009, 72 Stat. 796.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

The words ''proceeding . . . or civil action'' are substituted for ''proceeding . . . whether such proceedings be instituted . . . or be begun originally in any court of the United States'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''prescribed . . . issued'' are added for consistency in the revised title and with other titles of the Code. The words ''condition, or limitation'' are omitted as being included in ''term''. The words ''may be joined as a party or permitted to intervene'' are substituted for ''it shall be lawful to include as parties, or to permit the intervention of'' for clarity. The text of 49 App.:1489 (words after semicolon) is omitted as surplus.

§ 46110. Judicial review

(a) FILING AND VENUE.—Except for an order related to a foreign air carrier subject to disapproval by the President under section 41307 or 41509(f) of this title, a person disclosing a substantial interest in an order issued by the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation duties and powers designated to be carried out by the Administrator) in whole or in part under this part, part B, or subsection (*l*) or (s) of section 114 may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary, Under Secretary, or Administrator, as appropriate. The Secretary, Under Secretary, or Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary, Under Secretary, or Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary, Under Secretary, or Administrator to conduct further proceedings. After reasonable notice to the Secretary, Under Secretary, or Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary, Under Secretary, or Administrator, if supported by substantial evidence, are conclusive.

(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing an order under this section, the court may consider an objection to an order of the Secretary, Under Secretary, or Administrator only if the objection was made in the proceeding conducted by the Secretary, Under Secretary, or Administrator or if there was a reasonable ground for not making the objection in the proceeding.

(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1230; Pub. L. 107–71, title I, § 140(b)(1), (2), Nov. 19, 2001, 115 Stat. 641; Pub. L. 108–176, title II, § 228, Dec. 12, 2003, 117 Stat. 2532.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46110(a)	49 App.:1486(a), (b) (as 1486(a), (b) relates to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, § 1006(a), (b), (e), (f) (as § 1006(a), (b), (e), (f) relates to Administrator and CAB), 72 Stat. 795.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46110(b)	49 App.:1486(c) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, § 1006(c) (related to Administrator and CAB), 72 Stat. 795; restated June 29, 1960, Pub. L. 86–546, § 1, 74 Stat. 255.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46110(c)	49 App.:1551(b)(1)(E). 49 App.:1655(c)(1). 49 App.:1486(d) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §1006(d) (related to Administrator and CAB), 72 Stat. 795; restated Sept. 13, 1961, Pub. L. 87–225, §2, 75 Stat. 497.
46110(d)	49 App.:1486(e) (1st sentence related to Secretary and CAB). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1). 49 App.:1486(e) (last sentence) (related to Secretary and CAB).	
46110(e)	49 App.:1551(b)(1)(E). 49 App.:1655(c)(1). 49 App.:1486(f) (related to Secretary and CAB). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In subsections (a)–(d), the word ''Administrator'' in section 1006 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 795) is retained on authority of 49:106(g).

In subsection (a), the words ''affirmative or negative'' are omitted as surplus. The words ''is issued'' are substituted for ''the entry of'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''if any'' are omitted as surplus. The words ''of any proceeding'' are added for clarity. The words ''complained of'' are omitted as surplus.

In subsection (c), the word ''amend'' is added for consistency in the revised title. The word ''interim'' is substituted for ''interlocutory'' for clarity. The words ''taking other appropriate action'' are substituted for ''by such mandatory or other relief as may be appropriate'' for clarity and to eliminate unnecessary words.

In subsection (d), the words ''made in the proceeding conducted by'' are substituted for ''urged before'' for clarity.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176, in first sentence, struck out ''safety'' before ''duties and powers designated to be carried out by the Administrator)'' and substituted ''in whole or in part under this part, part B, or subsection (*l*) or (s) of section 114'' for ''under this part''.

2001—Subsec. (a). Pub. L. 107–71, §140(b)(1), inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' after ''(or''.

Subsecs. (b) to (d). Pub. L. 107–71, §140(b)(2), substituted '', Under Secretary, or Administrator'' for ''or Administrator'' wherever appearing.

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.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46111. Certificate actions in response to a security threat

(a) ORDERS.—The Administrator of Federal Aviation Administration shall issue an order amending, modifying, suspending, or revoking any part of a certificate issued under this title if the Administrator is notified by the Under Secretary for Border and Transportation Security of the Department of Homeland Security that the holder of the certificate poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. If requested by the Under Secretary, the order shall be effective immediately.

(b) HEARINGS FOR CITIZENS.—An individual who is a citizen of the United States who is adversely affected by an order of the Administrator under subsection (a) is entitled to a hearing on the record.

(c) HEARINGS.—When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Administrator or the Under Secretary.

(d) APPEALS.—An appeal from a decision of an administrative law judge as the result of a hearing under subsection (b) shall be made to the Transportation Security Oversight Board established by section 115. The Board shall establish a panel to review the decision. The members of this panel (1) shall not be employees of the Transportation Security Administration, (2) shall have the level of security clearance needed to review the determination made under this section, and (3) shall be given access to all relevant documents that support that determination. The panel may affirm, modify, or reverse the decision.

(e) REVIEW.—A person substantially affected by an action of a panel under subsection (d), or the Under Secretary when the Under Secretary decides that the action of the panel under this section will have a significant adverse impact on carrying out this part, may obtain review of the order under section 46110. The Under Secretary and the Administrator shall be made a party to the review proceedings. Findings of fact of the panel are conclusive if supported by substantial evidence.

(f) EXPLANATION OF DECISIONS.—An individual who commences an appeal under this section shall receive a written explanation of the basis for the determination or decision and all relevant documents that support that determination to the maximum extent that the national security interests of the United States and other applicable laws permit.

(g) CLASSIFIED EVIDENCE.—

(1) IN GENERAL.—The Under Secretary, in consultation with the Administrator and the Director of Central Intelligence, shall issue regulations to establish procedures by which the Under Secretary, as part of a hearing conducted under this section, may provide an unclassified summary of classified evidence upon which the order of the Administrator was based to the individual adversely affected by the order.

(2) REVIEW OF CLASSIFIED EVIDENCE BY ADMINISTRATIVE LAW JUDGE.—

(A) REVIEW.—As part of a hearing conducted under this section, if the order of the Administrator issued under subsection (a) is based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.),[1] such information may be submitted by the Under Secretary to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge ex parte and in camera.

(B) SECURITY CLEARANCES.—Pursuant to existing procedures and requirements, the Under Secretary shall, in coordination, as necessary, with the heads of other affected departments or agencies, ensure that administrative law judges reviewing orders of the Administrator under this section possess security clearances appropriate for their work under this section.

(3) UNCLASSIFIED SUMMARIES OF CLASSIFIED EVIDENCE.—As part of a hearing conducted under this section and upon the request of the individual adversely affected by an order of the Administrator under subsection (a), the Under Secretary shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under paragraph (1), an unclassified summary of any classified information upon which the order of the Administrator is based.

(Added Pub. L. 108–176, title VI, § 601(a), Dec. 12, 2003, 117 Stat. 2561.)

REFERENCES IN TEXT

Section 1(a) of the Classified Information Procedures Act, referred to in subsec. (g)(2)(A), is section 1(a) of Pub. L. 96–456, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

CHAPTER 463—PENALTIES

Sec.
46301. Civil penalties.
46302. False information.
46303. Carrying a weapon.
46304. Liens on aircraft.
46305. Actions to recover civil penalties.
46306. Registration violations involving aircraft not providing air transportation.
46307. Violation of national defense airspace.
46308. Interference with air navigation.
46309. Concession and price violations.
46310. Reporting and recordkeeping violations.
46311. Unlawful disclosure of information.
46312. Transporting hazardous material.
46313. Refusing to appear or produce records.
46314. Entering aircraft or airport area in violation of security requirements.
46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation.
46316. General criminal penalty when specific penalty not provided.
46317. Criminal penalty for pilots operating in air transportation without an airman's certificate.
46318. Interference with cabin or flight crew.
46319. Permanent closure of an airport without providing sufficient notice.

AMENDMENTS

2003—Pub. L. 108–176, title I, § 185(b), Dec. 12, 2003, 117 Stat. 2518, added item 46319.

2000—Pub. L. 106–181, title V, §§ 509(b), 511(b), Apr. 5, 2000, 114 Stat. 141, 142, added items 46317 and 46318.

§ 46301. Civil penalties

(a) GENERAL PENALTY.—(1) A person is liable to the United States Government for a civil penalty of not more than $25,000 (or $1,100 if the person is an individual or small business concern) for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II or III of chapter 421, chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), and 44908), section 47107(b) (including any assurance made under such section), or section 47133 of this title;

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies;

(C) any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title; or

(D) a regulation of the United States Postal Service under this part.

(2) A separate violation occurs under this subsection for each day the violation (other than a violation of section 41719) continues or, if applicable, for each flight involving the violation (other than a violation of section 41719).

(3) PENALTY FOR DIVERSION OF AVIATION REVENUES.—The amount of a civil penalty assessed under this section for a violation of section 47107(b) of this title (or any assurance made under such section) or section 47133 of this title may be increased above the otherwise applicable maximum amount under this section to an amount not to exceed 3 times the amount of revenues that are used in violation of such section.

(4) AVIATION SECURITY VIOLATIONS.—Notwithstanding paragraph (1) of this subsection, the maximum civil penalty for violating chapter 449 shall be $10,000; except that the maximum civil penalty shall be $25,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman).

(5) PENALTIES APPLICABLE TO INDIVIDUALS AND SMALL BUSINESS CONCERNS.—

(A) An individual (except an airman serving as an airman) or small business concern is liable to the Government for a civil penalty of not more than $10,000 for violating—

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), section

[1] So in original. Probably should be ''App.)),''.

44502 (b) or (c), chapter 447 (except sections 44717–44723), or chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909) of this title; or

(ii) a regulation prescribed or order issued under any provision to which clause (i) applies.

(B) A civil penalty of not more than $10,000 may be imposed for each violation under paragraph (1) committed by an individual or small business concern related to—

(i) the transportation of hazardous material;

(ii) the registration or recordation under chapter 441 of an aircraft not used to provide air transportation;

(iii) a violation of section 44718(d), relating to the limitation on construction or establishment of landfills;

(iv) a violation of section 44725, relating to the safe disposal of life-limited aircraft parts; or

(v) a violation of section 40127 or section 41705, relating to discrimination.

(C) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 41719 committed by an individual or small business concern shall be $5,000 instead of $1,000.

(D) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 41712 (including a regulation prescribed or order issued under such section) or any other regulation prescribed by the Secretary by an individual or small business concern that is intended to afford consumer protection to commercial air transportation passengers shall be $2,500 for each violation.

(6) FAILURE TO[1] COLLECT[1] AIRPORT[1] SECURITY[1] BADGES[1].—Notwithstanding paragraph (1), any employer (other than a governmental entity or airport operator) who employs an employee to whom an airport security badge or other identifier used to obtain access to a secure area of an airport is issued before, on, or after the date of enactment of this paragraph and who does not collect or make reasonable efforts to collect such badge from the employee on the date that the employment of the employee is terminated and does not notify the operator of the airport of such termination within 24 hours of the date of such termination shall be liable to the Government for a civil penalty not to exceed $10,000.

(b) SMOKE ALARM DEVICE PENALTY.—(1) A passenger may not tamper with, disable, or destroy a smoke alarm device located in a lavatory on an aircraft providing air transportation or intrastate air transportation.

(2) An individual violating this subsection is liable to the Government for a civil penalty of not more than $2,000.

(c) PROCEDURAL REQUIREMENTS.—(1) The Secretary of Transportation may impose a civil penalty for the following violations only after notice and an opportunity for a hearing:

(A) a violation of subsection (b) of this section or chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II of chapter 421, or section 44909 of this title.

(B) a violation of a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(C) a violation of any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title.

(D) a violation under subsection (a)(1) of this section related to the transportation of hazardous material.

(2) The Secretary shall give written notice of the finding of a violation and the civil penalty under paragraph (1) of this subsection.

(d) ADMINISTRATIVE IMPOSITION OF PENALTIES.—(1) In this subsection—

(A) ''flight engineer'' means an individual who holds a flight engineer certificate issued under part 63 of title 14, Code of Federal Regulations.

(B) ''mechanic'' means an individual who holds a mechanic certificate issued under part 65 of title 14, Code of Federal Regulations.

(C) ''pilot'' means an individual who holds a pilot certificate issued under part 61 of title 14, Code of Federal Regulations.

(D) ''repairman'' means an individual who holds a repairman certificate issued under part 65 of title 14, Code of Federal Regulations.

(2) The Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723) or section 46301(b), 46302 (for a violation relating to section 46504), 46318, or 47107(b) (as further defined by the Secretary under section 47107(*l*) and including any assurance made under section 47107(b)) of this title or a regulation prescribed or order issued under any of those provisions. The Secretary of Homeland Security may impose a civil penalty for a violation of chapter 449 (except sections 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), 46302[2] (except for a violation relating to section 46504), 46303,[2] or a regulation prescribed or order issued under such chapter 449. The Secretary of Homeland Security or Administrator shall give written notice of the finding of a violation and the penalty.

(3) In a civil action to collect a civil penalty imposed by the Secretary of Homeland Security or Administrator under this subsection, the issues of liability and the amount of the penalty may not be reexamined.

(4) Notwithstanding paragraph (2) of this subsection, the district courts of the United States have exclusive jurisdiction of a civil action involving a penalty the Secretary of Homeland Security or Administrator initiates if—

(A) the amount in controversy is more than—

(i) $50,000 if the violation was committed by any person before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act;

[1] So in original. Probably should not be capitalized.

[2] So in original. Probably should be preceded by ''section''.

(ii) $400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or

(iii) $50,000 if the violation was committed by an individual or small business concern on or after that date;

(B) the action is in rem or another action in rem based on the same violation has been brought;

(C) the action involves an aircraft subject to a lien that has been seized by the Government; or

(D) another action has been brought for an injunction based on the same violation.

(5)(A) The Administrator may issue an order imposing a penalty under this subsection against an individual acting as a pilot, flight engineer, mechanic, or repairman only after advising the individual of the charges or any reason the Administrator relied on for the proposed penalty and providing the individual an opportunity to answer the charges and be heard about why the order shall not be issued.

(B) An individual acting as a pilot, flight engineer, mechanic, or repairman may appeal an order imposing a penalty under this subsection to the National Transportation Safety Board. After notice and an opportunity for a hearing on the record, the Board shall affirm, modify, or reverse the order. The Board may modify a civil penalty imposed to a suspension or revocation of a certificate.

(C) When conducting a hearing under this paragraph, the Board is not bound by findings of fact of the Administrator but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(D) When an individual files an appeal with the Board under this paragraph, the order of the Administrator is stayed.

(6) An individual substantially affected by an order of the Board under paragraph (5) of this subsection, or the Administrator when the Administrator decides that an order of the Board under paragraph (5) will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(7)(A) The Administrator may impose a penalty on a person (except an individual acting as a pilot, flight engineer, mechanic, or repairman) only after notice and an opportunity for a hearing on the record.

(B) In an appeal from a decision of an administrative law judge as the result of a hearing under subparagraph (A) of this paragraph, the Administrator shall consider only whether—

(i) each finding of fact is supported by a preponderance of reliable, probative, and substantial evidence;

(ii) each conclusion of law is made according to applicable law, precedent, and public policy; and

(iii) the judge committed a prejudicial error that supports the appeal.

(C) Except for good cause, a civil action involving a penalty under this paragraph may not be initiated later than 2 years after the violation occurs.

(D) In the case of a violation of section 47107(b) of this title or any assurance made under such section—

(i) a civil penalty shall not be assessed against an individual;

(ii) a civil penalty may be compromised as provided under subsection (f); and

(iii) judicial review of any order assessing a civil penalty may be obtained only pursuant to section 46110 of this title.

(8) The maximum civil penalty the Under Secretary, Administrator, or Board may impose under this subsection is—

(A) $50,000 if the violation was committed by any person before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act;

(B) $400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or

(C) $50,000 if the violation was committed by an individual or small business concern on or after that date.

(9) This subsection applies only to a violation occurring after August 25, 1992.

(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under subsection (a)(3) of this section related to transportation of hazardous material, the Secretary shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(3) other matters that justice requires.

(f) COMPROMISE AND SETOFF.—(1)(A) The Secretary may compromise the amount of a civil penalty imposed for violating—

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), or chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909) of this title; or

(ii) a regulation prescribed or order issued under any provision to which clause (i) of this subparagraph applies.

(B) The Postal Service may compromise the amount of a civil penalty imposed under subsection (a)(1)(D) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(g) JUDICIAL REVIEW.—An order of the Secretary or the Administrator imposing a civil penalty may be reviewed judicially only under section 46110 of this title.

(h) NONAPPLICATION.—(1) This section does not apply to the following when performing official duties:

(A) a member of the armed forces of the United States.

(B) a civilian employee of the Department of Defense subject to the Uniform Code of Military Justice.

(2) The appropriate military authority is responsible for taking necessary disciplinary action and submitting to the Secretary (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) a timely report on action taken.

(i) SMALL BUSINESS CONCERN DEFINED.—In this section, the term ''small business concern'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1231; Pub. L. 103–305, title I, § 112(c), title II, § 207(c), Aug. 23, 1994, 108 Stat. 1575, 1588; Pub. L. 103–429, § 6(60), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title V, § 502(c), title VIII, § 804(b), title XII, § 1220(b), Oct. 9, 1996, 110 Stat. 3263, 3271, 3286; Pub. L. 104–287, § 5(77), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 105–102, § 3(c)(4), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106–181, title II, § 222, title V, §§ 503(c), 504(b), 519(c), title VII, §§ 707(b), 720, Apr. 5, 2000, 114 Stat. 102, 133, 134, 149, 158, 163; Pub. L. 106–424, § 15, Nov. 1, 2000, 114 Stat. 1888; Pub. L. 107–71, title I, § 140(d)(1)–(4), Nov. 19, 2001, 115 Stat. 642; Pub. L. 107–296, title XVI, § 1602, Nov. 25, 2002, 116 Stat. 2312; Pub. L. 108–176, title V, § 503(a)–(c), Dec. 12, 2003, 117 Stat. 2557, 2558; Pub. L. 108–458, title IV, § 4027(a), Dec. 17, 2004, 118 Stat. 3727; Pub. L. 110–53, title XIII, § 1302(b), Aug. 3, 2007, 121 Stat. 392; Pub. L. 110–161, div. E, title V, § 542, Dec. 26, 2007, 121 Stat. 2079.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46301(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
	49 App.:1405 (last sentence).	Aug. 23, 1958, Pub. L. 85–726, § 505 (last sentence), 72 Stat. 774.
	49 App.:1471(a)(1) (1st, 2d sentences less subchapter VII).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(1) (less title VII), 72 Stat. 783; restated July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 149; Aug. 5, 1974, Pub. L. 93–366, § 107, 88 Stat. 414; Jan. 3, 1975, Pub. L. 93–633, § 113(b), 88 Stat. 2162; Oct. 24, 1978, Pub. L. 95–504, § 35(a), 92 Stat. 1740; Aug. 8, 1985, Pub. L. 99–83, § 551(b)(2), 99 Stat. 225; Dec. 30, 1987, Pub. L. 100–223, § 204(a)–(c), 101 Stat. 1519; Nov. 18, 1988, Pub. L. 100–690, § 7208(a), 102 Stat. 4429.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46301(b)	49 App.:1374(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 404(d)(2); added Dec. 22, 1987, Pub. L. 100–202, § 328(a), 101 Stat. 1329–383.
46301(c)	49 App.:1471(a)(1) (3d, 5th sentences less subchapter VII).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
46301(d)(1) ..	49 App.:1471(a)(3)(H).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 901(a)(3) (less (D)(v) (related to Administrator under title VII)); added Nov. 18, 1988, Pub. L. 100–690, § 7208(b), 102 Stat. 4429; restated Aug. 26, 1992, Pub. L. 102–345, § 2(a), 106 Stat. 923; Oct. 31, 1992, Pub. L. 102–581, § 208, 106 Stat. 4895.
46301(d)(2) ..	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
	49 App.:1471(a)(3)(A).	
46301(d)(3) ..	49 App.:1471(a)(3)(B).	
46301(d)(4) ..	49 App.:1471(a)(3)(C).	
46301(d)(5) ..	49 App.:1471(a)(3)(D)(i)–(iv).	
46301(d)(6) ..	49 App.:1471(a)(3)(D)(v) (less Administrator under subch. VII).	
46301(d)(7) ..	49 App.:1471(a)(3)(E).	
46301(d)(8) ..	49 App.:1471(a)(3)(G).	
46301(d)(9) ..	49 App.:1471(a)(3)(F).	
46301(e)	49 App.:1471(a)(1) (4th sentence less subchapter VII).	
46301(f)	49 App.:1471(a)(2) (related to subchapter III, V, VI, or XII, § 1501, 1514, or 1515(e)(2)(B), and Postal Service).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(2) (related to title III, V, VI, or XII, § 1101, 1114, or 1115(e)(2)(B), and Postmaster General), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, § 35(b), 92 Stat. 1740; Dec. 30, 1987, Pub. L. 100–223, § 204(d), 101 Stat. 1519.
	49 App.:1551(b)(1)(E).	
46301(g)	49 App.:1471(a)(1) (6th sentence less subchapter VII).	
	49 App.:1551(b)(1)(E).	
46301(h)	49 App.:1471(a)(1) (last sentence less subchapter VII).	
	49 App.:1551(b)(1)(E).	

In this section, the word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The words ''United States Postal Service'' and ''Postal Service'' are substituted for ''Postmaster General'' because of section 4(a) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773).

In subsections (a)(1)(C) and (c), the words ''condition, or limitation'' are omitted as surplus.

In subsection (a)(2), before clause (A), the words ''occurring after December 30, 1987'' are omitted as obsolete.

In subsection (b)(1), the word ''providing'' is substituted for ''engaged in'' for consistency in the revised title.

In subsection (b)(2), the words ''in accordance with section 1471 of this Appendix'' are omitted as surplus.

In subsection (c)(1), before clause (A), the words ''or his delegate'' are omitted because of 49:322(b). The word ''impose'' is substituted for ''assessed'' for consistency. The words ''amount of any such'' are omitted as surplus.

In subsection (d), the word ''impose'' is substituted for ''assess'' for consistency.

In subsection (d)(1), before clause (A), the words ''the following definitions apply'' are omitted as surplus.

In subsection (d)(2), the text of section 7214 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat 4434) is omitted as obsolete. The words ''or the delegate of the Administrator'' are omitted because of 49:322(b).

In subsection (d)(4)(C), the word ''or'' is substituted for ''and'' for clarity.

In subsection (d)(5)(B) and (7)(A), the words ''in accordance with section 554 of title 5'' are omitted for consistency in the revised title and because 5:554 applies to a hearing on the record unless otherwise stated.

In subsection (d)(5)(B), the words ''consistent with this subsection'' are omitted as surplus.

In subsection (d)(5)(C), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g).

In subsection (d)(7)(B), before clause (i), the words ''as the result of a hearing under subparagraph (A) of this paragraph'' are added for clarity.

In subsection (e), before clause (1), the words ''civil penalty under subsection (a)(3) of this section related to transportation of hazardous material'' are substituted for ''such penalty'' for clarity. In clause (1), the word ''committed'' is omitted as surplus.

In subsection (f)(2), the word ''imposed'' is substituted for ''when finally determined or fixed by order of the Board'' for consistency. The words ''agreed upon'' are omitted as surplus.

In subsection (g), the word ''imposing'' is substituted for ''assessing'' for consistency.

In subsection (h)(2), the words ''with respect thereto'' are omitted as surplus. The word ''Administrator'' in section 901(a)(1) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 783) is retained on authority of 49:106(g).

PUB. L. 103–429

This amends 49:46301(a)(1)(A) and (2)(A), (c)(1)(A), (d)(2), and (f)(1)(A)(i) to correct erroneous cross-references.

PUB. L. 104–287, § 5(77)(A) AND (B)

These amend 49:46301(a)(1)(A) and (2)(A) to correct errors in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1231), to include in the cross-reference sections enacted after the cutoff date for the codification of title 49 as enacted by section 1 of the Act (Public Law 103–272, 108 Stat. 745), and to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

PUB. L. 104–287, § 5(77)(C)

This makes a conforming amendment to 49:46301(a)(3).

PUB. L. 104–287, § 5(77)(D)–(F)

These amend 49:46301(c)(1)(A), (d)(2), and (f)(1)(A)(i) to correct errors in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1231), to include in the cross-reference sections enacted after the cutoff date for the codification of title 49 as enacted by section 1 of the Act (Public Law 103–272, 108 Stat. 745), and to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (a)(6), is the date of enactment of Pub. L. 110–161, which was approved Dec. 26, 2007.

The date of enactment of the Vision 100—Century of Aviation Reauthorization Act, referred to in subsec. (d)(4)(A), (8), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

AMENDMENTS

2007—Subsec. (a)(4). Pub. L. 110–53 struck out ''or another requirement under this title administered by the Under Secretary of Transportation for Security'' after ''chapter 449''.

Subsec. (a)(6). Pub. L. 110–161 added par. (6).

2004—Subsec. (d)(2). Pub. L. 108–458, § 4027(a)(1)–(3), substituted ''46302 (for a violation relating to section 46504),'' for ''46302, 46303,'', ''The Secretary of Homeland Security may'' for ''The Under Secretary of Transportation for Security may'', ''44909), 46302 (except for a violation relating to section 46504), 46303,'' for ''44909)'', and ''The Secretary of Homeland Security or'' for ''The Under Secretary or''.

Subsec. (d)(3). Pub. L. 108–458, § 4027(a)(3), substituted ''Secretary of Homeland Security or'' for ''Under Secretary or''.

Subsec. (d)(4). Pub. L. 108–458, § 4027(a)(3), substituted ''Secretary of Homeland Security or'' for ''Under Secretary or'' in introductory provisions.

Subsec. (d)(4)(A). Pub. L. 108–458, § 4027(a)(4), realigned margins.

2003—Subsec. (a)(1). Pub. L. 108–176, § 503(a)(1), substituted ''$25,000 (or $1,100 if the person is an individual or small business concern)'' for ''$1,000'' in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 108–176, § 503(a)(2), (3), struck out ''or'' before ''section 47107(b)'' and substituted ''section), or section 47133'' for ''section)''.

Subsec. (a)(2). Pub. L. 108–176, § 503(a)(5), substituted ''section 41719'' for ''section 41715'' in two places.

Pub. L. 108–176, § 503(a)(4), redesignated par. (4) as (2) and struck out former par. (2) which read as follows: ''A person operating an aircraft for the transportation of passengers or property for compensation (except an airman serving as an airman) is liable to the Government for a civil penalty of not more than $10,000 for violating—

''(A) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), section 44502(b) or (c), chapter 447 (except sections 44717–44723), or chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909) of this title; or

''(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.''

Subsec. (a)(3). Pub. L. 108–176, § 503(a)(4), redesignated par. (5) as (3) and struck out former par. (3) which read as follows: ''A civil penalty of not more than $10,000 may be imposed for each violation under paragraph (1) of this subsection related to

''(A) the transportation of hazardous material;

''(B) the registration or recordation under chapter 441 of this title of an aircraft not used to provide air transportation;

''(C) a violation of section 44718(d), relating to the limitation on construction or establishment of landfills;

''(D) a violation of section 44725, relating to the safe disposal of life-limited aircraft parts; or

''(E) a violation of section 41705, relating to discrimination against handicapped individuals.''

Subsec. (a)(4). Pub. L. 108–176, § 503(a)(6), substituted ''paragraph (1)'' for ''paragraphs (1) and (2)''.

Pub. L. 108–176, § 503(a)(4), redesignated par. (8) as (4). Former par. (4) redesignated (2).

Subsec. (a)(5). Pub. L. 108–176, § 503(a)(7), added par. (5). Former par. (5) redesignated (3).

Subsec. (a)(6). Pub. L. 108–176, § 503(a)(4), struck out heading and text of par. (6). Text read as follows: ''Notwithstanding paragraph (1), the maximum civil penalty for violating section 41715 shall be $5,000 instead of $1,000.''

Subsec. (a)(7). Pub. L. 108–176, § 503(a)(4), struck out heading and text of par. (7). Text read as follows: ''Notwithstanding paragraphs (1) and (4), the maximum civil penalty for violating section 40127 or 41712 (including a regulation prescribed or order issued under such section) or any other regulation prescribed by the Secretary that is intended to afford consumer protection to commercial air transportation passengers, shall be $2,500 for each violation.''

Subsec. (a)(8). Pub. L. 108–176, § 503(a)(4), redesignated par. (8) as (4).

Subsec. (d)(4)(A). Pub. L. 108–176, § 503(b)(1), substituted ''more than—'' for ''more than $50,000;'' and added cls. (i) to (iii).

Subsec. (d)(8). Pub. L. 108–176, § 503(b)(2), substituted ''is—'' for ''is $50,000.'' and added subpars. (A) to (C).

Subsec. (i). Pub. L. 108–176, § 503(c), added subsec. (i).

2002—Subsec. (a)(8). Pub. L. 107–296 added par. (8).

2001—Subsec. (d)(2). Pub. L. 107–71, § 140(d)(1)(C), inserted ''Under Secretary or'' before ''Administrator shall''.

Pub. L. 107–71, § 140(d)(1)(B), inserted after first sentence ''The Under Secretary of Transportation for Security may impose a civil penalty for a violation of chapter 449 (except sections 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909) or a regulation prescribed or order issued under such chapter 449.''

Pub. L. 107–71, § 140(d)(1)(A), which directed amendment of subsec. (d)(2) by striking out '', chapter 449 (except sections 44902, 44903(d), 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909),'', was executed by striking out '', chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909),'' before ''or section 46301(b)'', to reflect the probable intent of Congress.

Subsec. (d)(3), (4). Pub. L. 107–71, § 140(d)(2), substituted ''Under Secretary or Administrator'' for ''Administrator''.

Subsec. (d)(8). Pub. L. 107–71, § 140(d)(3), substituted ''Under Secretary, Administrator,'' for ''Administrator''.

Subsec. (h)(2). Pub. L. 107–71, § 140(d)(4), inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' after ''(or''.

2000—Subsec. (a)(1)(A). Pub. L. 106–181, §§ 519(c), 720(1), substituted ''subchapter II or III of chapter 421'' for ''subchapter II of chapter 421'' and struck out ''46302, 46303, or'' before ''47107(b) (including''.

Subsec. (a)(3)(C). Pub. L. 106–181, § 503(c), added subpar. (C).

Subsec. (a)(3)(D), (E). Pub. L. 106–181, §§ 504(b), 707(b), added subpars. (D) and (E).

Subsec. (a)(6). Pub. L. 106–181, § 222(b), inserted heading and realigned margins.

Subsec. (a)(7). Pub. L. 106–181, § 222(a), added par. (7).

Subsec. (d)(2). Pub. L. 106–424 substituted ''46301(b), 46302, 46303, 46318,'' for ''46302, 46303,''.

Subsec. (d)(7)(A). Pub. L. 106–181, § 720(2), substituted ''a penalty on a person'' for ''a penalty on an individual''.

Subsec. (g). Pub. L. 106–181, § 720(3), inserted ''or the Administrator'' after ''Secretary''.

1997—Subsecs. (a)(1)(A), (2)(A), (d)(2), (f)(1)(A)(i). Pub. L. 105–102 repealed Pub. L. 104–264, §§ 502(c), 1220(b). See 1996 Amendment notes below.

1996—Subsec. (a)(1)(A). Pub. L. 104–287, § 5(77)(A)(iii), (iv), inserted ''or'' after ''46303,'' and struck out '', or 41715'' after ''under such section)''.

Pub. L. 104–287, § 5(77)(A)(ii), substituted ''section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), and 44908), or section'' for ''or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44909(a), 44912–44915, 44932–44938,''.

Pub. L. 104–287, § 5(77)(A)(i), substituted ''chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714),'' for ''any of sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742,''.

Pub. L. 104–264, § 1220(b), which directed amendment of subpar. (A) by inserting ''44718(d),'' after ''44716,'', was repealed by Pub. L. 105–102.

Pub. L. 104–264, § 502(c)(1), which directed amendment of subpar. (A) by inserting ''44724,'' after ''44718(d),'', was repealed by Pub. L. 105–102.

Subsec. (a)(2)(A). Pub. L. 104–287, § 5(77)(B), substituted '', section 44502(b) or (c), chapter 447 (except sections 44717–44723), or chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909)'' for ''or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44912–44915, or 44932–44938''.

Pub. L. 104–264, § 502(c)(2), which directed amendment of subpar. (A) by inserting ''44724,'' after ''44716,'', was repealed by Pub. L. 105–102.

Subsec. (a)(3). Pub. L. 104–287, § 5(77)(C), realigned margins of subpars. (A) and (B).

Subsec. (a)(5). Pub. L. 104–264, § 804(b), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''In the case of a violation of section 47107(b) of this title, the maximum civil penalty for a continuing violation shall not exceed $50,000.''

Subsec. (c)(1)(A). Pub. L. 104–287, § 5(77)(D)(ii), (iii), struck out ''or'' before ''subchapter II'' and inserted '', or section 44909'' before ''of this title''.

Pub. L. 104–287, § 5(77)(D)(i), substituted ''chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714),'' for ''any of sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742,''.

Subsec. (d)(2). Pub. L. 104–287, § 5(77)(E), substituted ''section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909), or section'' for ''or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, 44932–44938,''.

Pub. L. 104–264, § 1220(b), which directed amendment of par. (2) by inserting ''44718(d),'' after ''44716,'', was repealed by Pub. L. 105–102.

Pub. L. 104–264, § 502(c)(1), which directed amendment of par. (2) by inserting ''44724,'' after ''44718(d),'', was repealed by Pub. L. 105–102.

Subsec. (f)(1)(A)(i). Pub. L. 104–287, § 5(77)(F), substituted ''section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), or chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909)'' for ''or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, or 44932–44938''.

Pub. L. 104–264, § 1220(b), which directed amendment of cl. (i) by inserting ''44718(d),'' after ''44716,'', was repealed by Pub. L. 105–102.

Pub. L. 104–264, § 502(c)(1), which directed amendment of cl. (i) by inserting ''44724,'' after ''44718(d),'', was repealed by Pub. L. 105–102.

1994—Subsec. (a)(1)(A). Pub. L. 103–429, § 6(60)(A), substituted ''any of sections 41301–41306'' for ''section 41301–41306'' and ''any of sections 44701(a)'' for ''section 44701(a)''.

Pub. L. 103–305, § 207(c)(1), inserted '', or 41715'' before ''of this title''.

Pub. L. 103–305, § 112(c)(1)(A), substituted ''46303, 47107(b) (including any assurance made under such section)'' for ''or 46303''.

Subsec. (a)(2)(A). Pub. L. 103–429, § 6(60)(B), substituted ''any of sections 44701(a)'' for ''section 44701(a)''.

Subsec. (a)(4). Pub. L. 103–305, § 207(c)(2), inserted ''(other than a violation of section 41715)'' after ''the violation'' in two places.

Subsec. (a)(5). Pub. L. 103–305, § 112(c)(1)(B), added par. (5).

Subsec. (a)(6). Pub. L. 103–305, § 207(c)(3), added par. (6).

Subsec. (c)(1)(A). Pub. L. 103–429, § 6(60)(C), substituted ''any of sections 41301–41306'' for ''section 41301–41306''.

Subsec. (d)(2). Pub. L. 103–429, § 6(60)(B), substituted ''any of sections 44701(a)'' for ''section 44701(a)''.

Pub. L. 103–305, § 112(c)(2), substituted ''46303, or 47107(b) (as further defined by the Secretary under section 47107(*l*) and including any assurance made under section 47107(b))'' for ''or 46303''.

Subsec. (d)(7)(D). Pub. L. 103–305, § 112(c)(3), added subpar. (D).

Subsec. (f)(1)(A)(i). Pub. L. 103–429, § 6(60)(B), substituted ''any of sections 44701(a)'' for ''section 44701(a)''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as other-

wise 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.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, § 3(c), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(c)(4) is effective Oct. 9, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

Amendment by section 502(c) of Pub. L. 104–264 applicable to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following Oct. 9, 1996, see section 502(d) of Pub. L. 104–264, set out as a note under section 30305 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

Amendment by section 207(c) of Pub. L. 103–305 effective Feb. 1, 1995, see section 207(d) of Pub. L. 103–305, set out as an Effective Date note under section 41719 of this title.

SAVINGS PROVISION

Pub. L. 102–345, § 2(c), Aug. 26, 1992, 106 Stat. 925, provided that: ''Notwithstanding subsections (a) and (b) of this section, sections 901(a)(3) and 905 of the Federal Aviation Act of 1958 [Pub. L. 85–726] as in effect on July 31, 1992, shall continue in effect on and after such date of enactment with respect to violations of the Federal Aviation Act of 1958 occurring before such date of enactment.''

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46302. False information

(a) CIVIL PENALTY.—A person that, knowing the information to be false, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title, is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Homeland Security and, for a violation relating to section 46504, the Secretary of Transportation, may compromise the amount of a civil penalty imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1234; Pub. L. 108–458, title IV, § 4027(b), Dec. 17, 2004, 118 Stat. 3727.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46302(a)	49 App.:1471(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 901(c); added Oct. 12, 1984, Pub. L. 98–473, § 2014(a)(1), 98 Stat. 2189.
46302(b)	49 App.:1471(a)(2) (related to 1471(c)).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(2) (related to § 901(c)), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, § 35(b), 92 Stat. 1740; Oct. 12, 1984, Pub. L. 98–473, § 2014(b), 98 Stat. 2189.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), the words ''gives, or causes to be given'' are substituted for ''imparts or conveys or causes to be imparted or conveyed'' to eliminate unnecessary words. The words ''attempt or'', ''a crime'', and ''which shall be recoverable in a civil action brought in the name of the United States'' are omitted as surplus.

In subsection (b)(1), the words ''imposed under'' are substituted for ''provided for in'' for consistency.

In subsection (b)(2), the words ''imposed or compromised'' are substituted for ''The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise'' to eliminate unnecessary words.

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108–458 substituted ''Secretary of Homeland Security and, for a violation relating to section 46504, the Secretary of Transportation,'' for ''Secretary of Transportation''.

§ 46303. Carrying a weapon

(a) CIVIL PENALTY.—An individual who, when on, or attempting to board, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Homeland Security may compromise the amount of a civil penalty imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual liable for the penalty.

(c) NONAPPLICATION.—This section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the Government, authorized to carry arms in an official capacity; or

(2) another individual the Administrator of the Federal Aviation Administration or the Secretary of Homeland Security by regulation authorizes to carry arms in an official capacity.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1234; Pub. L. 107–71, title I, § 140(d)(5), Nov. 19, 2001, 115 Stat. 642; Pub. L. 108–458, title IV, § 4027(c), Dec. 17, 2004, 118 Stat. 3727.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46303(a)	49 App.:1471(d) (words after 3d comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 901(d); added Oct. 12, 1984, Pub. L. 98–473, § 2014(a)(1), 98 Stat. 2189.
46303(b)	49 App.:1471(a)(2) (related to 1471(d)).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(2) (related to § 901(d)), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, § 35(b), 92 Stat. 1740; Oct. 12, 1984, Pub. L. 98–473, § 2014(b), 98 Stat. 2189.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
46303(c)	49 App.:1471(d) (words before 3d comma).	

In subsection (a), the words ''deadly or'' and ''which shall be recoverable in a civil action brought in the name of the United States'' are omitted as surplus.

In subsection (b)(1), the words ''imposed under'' are substituted for ''provided for in'' for consistency.

In subsection (b)(2), the words ''imposed or compromised'' are substituted for ''The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise'' to eliminate unnecessary words.

In subsection (c)(1), the words ''State or political subdivision of a State'' are substituted for ''municipal or State government'' for consistency in the revised title and with other titles of the United States Code. The words ''or required'' are omitted as surplus.

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108–458, § 4027(c)(1), substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

Subsec. (c)(2). Pub. L. 108–458, § 4027(c)(2), substituted ''Secretary of Homeland Security'' for ''Under Secretary of Transportation for Security''.

2001—Subsec. (c)(2). Pub. L. 107–71 inserted ''or the Under Secretary of Transportation for Security'' after ''Federal Aviation Administration''.

§ 46304. Liens on aircraft

(a) AIRCRAFT SUBJECT TO LIENS.—When an aircraft is involved in a violation referred to in section 46301(a)(1)(A)–(C) of this title and the violation is by the owner of, or individual commanding, the aircraft, the aircraft is subject to a lien for the civil penalty.

(b) SEIZURE.—An aircraft subject to a lien under this section may be seized summarily and placed in the custody of a person authorized to take custody of it under regulations of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator). A report on the seizure shall be submitted to the Attorney General. The Attorney General promptly shall bring a civil action in rem to enforce the lien or notify the Secretary or Administrator that the action will not be brought.

(c) RELEASE.—An aircraft seized under subsection (b) of this section shall be released from custody when—

(1) the civil penalty is paid;

(2) a compromise amount agreed on is paid;

(3) the aircraft is seized under a civil action in rem to enforce the lien;

(4) the Attorney General gives notice that a civil action will not be brought under subsection (b) of this section; or

(5) a bond (in an amount and with a surety the Secretary or Administrator prescribes), conditioned on payment of the penalty or compromise, is deposited with the Secretary or Administrator.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1235; Pub. L. 108–176, title V, § 503(d)(2), Dec. 12, 2003, 117 Stat. 2559.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46304(a)	49 App.:1471(b).	Aug. 23, 1958, Pub. L. 85–726, §§ 901(b), 903(b)(2), (3), 72 Stat. 784, 786.
46304(b)	49 App.:1473(b)(2).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46304(c)	49 App.:1473(b)(3). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In this section, the word ''civil'' is added before ''penalty'' for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (c), the word ''Administrator'' in section 902(b)(2) and (3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 786) is retained on authority of 49:106(g). The words ''Attorney General'' are substituted for ''United States attorney for the judicial district in which the seizure is made'' and ''United States attorney'' because of 28:503 and 509.

In subsection (b), the words ''report on the seizure'' are substituted for ''report of the cause'' for clarity. The words ''bring a civil action in rem'' are substituted for ''institute proceedings'' for clarity and consistency in the revised title and with other titles of the Code and the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''that the action will not be brought'' are substituted for ''of his failure to so act'' for clarity.

In subsection (c)(3), the words ''under a civil action in rem'' are substituted for ''in pursuance of process of any court in proceedings in rem'' to eliminate unnecessary words and for consistency.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176 struck out '', (2), or (3)'' after ''section 46301(a)(1)(A)–(C)''.

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.

§ 46305. Actions to recover civil penalties

A civil penalty under this chapter may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a jury trial of an issue of fact in an action involving a civil penalty under this chapter (except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board) if the value of the matter in controversy is more than $20. Issues of fact tried by a jury may be reexamined only under common law rules.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1235.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46305	49 App.:1473(b)(1).	Aug. 23, 1958, Pub. L. 85–726, § 903(b)(1), 72 Stat. 786; Oct. 24, 1978, Pub. L. 95–504, § 36, 92 Stat. 1741.
	49 App.:1473(b)(4).	Aug. 23, 1958, Pub. L. 85–726, § 903(b)(4), 72 Stat. 787.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

The text of 49 App.:1473(b)(4) is omitted because of 28:ch. 131. The words ''imposed or assessed'' are omitted as surplus. The words ''bringing a civil action'' are substituted for ''proceedings in personam'', the words ''civil action in rem'' are substituted for ''proceedings in rem'', and the words ''civil action'' are substituted for ''civil suits'', for consistency in the revised title and with other titles of the United States Code and the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''regardless of the place an aircraft in a civil action in rem is seized'' are substituted for 49 App.:1473(b)(1) (last sentence) to eliminate unnecessary words. The word ''civil'' is added after ''involving a'' for clarity. The words ''(except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board)'' are substituted for ''other than those assessed by the Board'' because the Civil Aeronautics Board went out of existence and its duties and powers were transferred to the Secretary of Transportation.

§ 46306. Registration violations involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL CRIMINAL PENALTY.—Except as provided by subsection (c) of this section, a person shall be fined under title 18, imprisoned for not more than 3 years, or both, if the person—

(1) knowingly and willfully forges or alters a certificate authorized to be issued under this part;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, such a certificate;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft;

(4) obtains a certificate authorized to be issued under this part by knowingly and willfully falsifying or concealing a material fact, making a false, fictitious, or fraudulent statement, or making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry;

(5) owns an aircraft eligible for registration under section 44102 of this title and knowingly and willfully operates, attempts to operate, or allows another person to operate the aircraft when—

(A) the aircraft is not registered under section 44103 of this title or the certificate of registration is suspended or revoked; or

(B) the owner knows or has reason to know that the other person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(6) knowingly and willfully operates or attempts to operate an aircraft eligible for registration under section 44102 of this title knowing that—

(A) the aircraft is not registered under section 44103 of this title;

(B) the certificate of registration is suspended or revoked; or

(C) the person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(7) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity;

(8) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity; or

(9) operates an aircraft with a fuel tank or fuel system that has been installed or modified knowing that the tank, system, installation, or modification does not comply with regulations and requirements of the Administrator of the Federal Aviation Administration.

(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—(1) In this subsection, ''controlled substance'' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(2) A person violating subsection (b) of this section shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment of more than one year under a law of the United States or a State; or

(B) that is provided is related to an act punishable by death or imprisonment for more than one year under a law of the United States

or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(3) A term of imprisonment imposed under paragraph (2) of this subsection shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual.

(d) SEIZURE AND FORFEITURE.—(1) The Administrator of Drug Enforcement or the Commissioner of Customs may seize and forfeit under the customs laws an aircraft whose use is related to a violation of subsection (b) of this section, or to aid or facilitate a violation, regardless of whether a person is charged with the violation.

(2) An aircraft's use is presumed to have been related to a violation of, or to aid or facilitate a violation of—

(A) subsection (b)(1) of this section if the aircraft certificate of registration has been forged or altered;

(B) subsection (b)(3) of this section if there is an external display of false or misleading registration numbers or country of registration;

(C) subsection (b)(4) of this section if—

(i) the aircraft is registered to a false or fictitious person; or

(ii) the application form used to obtain the aircraft certificate of registration contains a material false statement;

(D) subsection (b)(5) of this section if the aircraft was operated when it was not registered under section 44103 of this title; or

(E) subsection (b)(9) of this section if the aircraft has a fuel tank or fuel system that was installed or altered—

(i) in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration; or

(ii) if a certificate required to be issued for the installation or alteration is not carried on the aircraft.

(3) The Administrator of the Federal Aviation Administration, the Administrator of Drug Enforcement, and the Commissioner shall agree to a memorandum of understanding to establish procedures to carry out this subsection.

(e) RELATIONSHIP TO STATE LAWS.—This part does not prevent a State from establishing a criminal penalty, including providing for forfeiture and seizure of aircraft, for a person that—

(1) knowingly and willfully forges or alters an aircraft certificate of registration;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, a fraudulent aircraft certificate of registration;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft; or

(4) obtains an aircraft certificate of registration from the Administrator of the Federal Aviation Administration by—

(A) knowingly and willfully falsifying or concealing a material fact;

(B) making a false, fictitious, or fraudulent statement; or

(C) making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1235; Pub. L. 104–287, § 5(78), Oct. 11, 1996, 110 Stat. 3397.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46306(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
46306(b)	49 App.:1472(b)(1), (2) (1st sentence cl. (A)).	Aug. 23, 1958, Pub. L. 85–726, § 902(b)(1)–(4), 72 Stat. 784; Oct. 19, 1984, Pub. L. 98–499, § 6, 98 Stat. 2316; restated Nov. 18, 1988, Pub. L. 100–690, § 7209(a), 102 Stat. 4429.
46306(c)(1) ..	49 App.:1472(b)(4).	
46306(c)(2) ..	49 App.:1472(b)(2) (1st sentence cl. (B)).	
46306(c)(3) ..	49 App.:1472(b)(2) (last sentence).	
46306(d)	49 App.:1472(b)(3).	
46306(e)	49 App.:1472(b)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(b)(5); added Oct. 27, 1986, Pub. L. 99–570, § 3401(a)(1), 100 Stat. 3207–99; Nov. 18, 1988, Pub. L. 100–690, § 7209(a), (b)(1), 102 Stat. 4429, 4432.

In subsections (b)(9), (d), and (e), the word ''Administrator'' in section 902(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g).

In subsection (b), before clause (1), the words ''Except as provided by subsection (c) of this section'' are added for clarity. The words ''It shall be unlawful for any person'' and ''upon conviction'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not more than $15,000'' for consistency with title 18. In clause (1), the words ''counterfeit'' and ''falsely make'' are omitted as surplus. In clause (4), the words ''covering up'', ''representation'', and ''writing'' are omitted as surplus. In clause (7), the word ''valid'' is omitted as surplus.

In subsection (c)(2), before clause (A), the words ''fined under title 18'' are substituted for ''a fine of not more than $25,000'' for consistency with title 18.

In subsection (d)(1) and (3), the words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' and ''Drug Enforcement Administration'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words ''Commissioner of Customs'' and ''Commissioner'' are substituted for ''United States Customs Service'' because of 19:2071.

In subsection (d)(2)(A), the words ''aircraft certificate of registration'' are substituted for ''registration'' for consistency in this section. The words ''counterfeited'' and ''falsely made'' are omitted as surplus.

In subsections (d)(2)(C)(ii) and (e), the words ''aircraft certificate of registration'' are substituted for ''aircraft registration certificate'' for consistency with 49 App.:1401, restated in chapter 441 of the revised title.

In subsection (e), before clause (1), the words ''this subsection or in any other provision of'' are omitted as surplus. In clause (1), the words ''counterfeits'' and ''falsely makes'' are omitted as surplus. In clause (4)(A), the words ''covering up'' are omitted as surplus. In clause (4)(B), the words ''or representation'' are omitted as surplus. In clause (4)(C), the words ''writing or'' are omitted as surplus.

PUB. L. 104–287

This makes a clarifying amendment to 49:46306(c)(2)(B).

AMENDMENTS

1996—Subsec. (c)(2)(B). Pub. L. 104–287 inserted ''that is'' before ''provided''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46307. Violation of national defense airspace

A person that knowingly or willfully violates section 40103(b)(3) of this title or a regulation prescribed or order issued under section 40103(b)(3) shall be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1237.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46307	49 App.:1523.	Aug. 23, 1958, Pub. L. 85–726, § 1203, 72 Stat. 800.

The words ''In addition to the penalties otherwise provided for by this chapter'' are omitted as surplus. The word ''prescribed'' is added for consistency in the revised title. The words ''fined under title 18'' are substituted for ''a fine of not exceeding $10,000'', and the words ''shall be deemed guilty of a misdemeanor'' are omitted, for consistency with title 18. The words ''and upon conviction thereof'' and ''such fine and imprisonment'' are omitted as surplus.

§ 46308. Interference with air navigation

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) with intent to interfere with air navigation in the United States, exhibits in the United States a light or signal at a place or in a way likely to be mistaken for a true light or signal established under this part or for a true light or signal used at an air navigation facility;

(2) after a warning from the Administrator of the Federal Aviation Administration, continues to maintain a misleading light or signal; or

(3) knowingly interferes with the operation of a true light or signal.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1238.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46308	49 App.:1472(c).	Aug. 23, 1958, Pub. L. 85–726, § 902(c), 72 Stat. 784.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, before clause (1), the words ''fined under title 18'' are substituted for ''a fine of not exceeding $5,000'' for consistency with title 18. The words ''such fine and imprisonment'' are omitted as surplus. In clause (1), the words ''used at'' are substituted for ''in connection with'' for clarity. The words ''airport or other'' are omitted as being included in the definition of ''air navigation facility'' in section 40102(a) of the revised title. In clause (2), the word ''due'' is omitted as surplus. The word ''Administrator'' in section 902(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g). In clause (3), the words ''removes, extinguishes, or'' are omitted as surplus.

§ 46309. Concession and price violations

(a) CRIMINAL PENALTY FOR OFFERING, GRANTING, GIVING, OR HELPING TO OBTAIN CONCESSIONS AND LOWER PRICES.—An air carrier, foreign air carrier, ticket agent, or officer, agent, or employee of an air carrier, foreign air carrier, or ticket agent shall be fined under title 18 if the air carrier, foreign air carrier, ticket agent, officer, agent, or employee—

(1) knowingly and willfully offers, grants, or gives, or causes to be offered, granted, or given, a rebate or other concession in violation of this part; or

(2) by any means knowingly and willfully assists, or willingly allows, a person to obtain transportation or services subject to this part at less than the price lawfully in effect.

(b) CRIMINAL PENALTY FOR RECEIVING REBATES, PRIVILEGES, AND FACILITIES.—A person shall be fined under title 18 if the person by any means—

(1) knowingly and willfully solicits, accepts, or receives a rebate of a part of a price lawfully in effect for the foreign air transportation of property, or a service related to the foreign air transportation; or

(2) knowingly solicits, accepts, or receives a privilege or facility related to a matter the Secretary of Transportation requires be specified in a currently effective tariff applicable to the foreign air transportation of property.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1238.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46309(a)	49 App.:1472(d)(1).	Aug. 23, 1958, Pub. L. 85–726, § 902(d)(1), 72 Stat. 785; Jan. 3, 1975, Pub L. 93–623, § 8(b), 88 Stat. 2105.
46309(b)	49 App.:1472(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(d)(2); added Jan. 3, 1975, Pub. L. 93–623, § 8(b), 88 Stat. 2106.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, the words ''fined under title 18'' are substituted for ''a fine of not less than $100 and not more than $5,000'' and ''fined not less than $100, nor more than $5,000'' for consistency with title 18. The words ''for each offense'' are omitted as surplus. The words ''fares, or charges'' are omitted as surplus because of the definition of ''rate'' in section 40102(a) of the revised title.

In subsection (a), before clause (1), the word ''representative'' is omitted as surplus. The words ''shall be deemed guilty of a misdemeanor'' are omitted as superseded by 18:3559. The words ''and, upon conviction thereof'' are omitted as surplus. In clause (2), the words ''device or'' and ''suffer or'' are omitted as surplus.

In subsection (b), before clause (1), the words ''by any means'' are substituted for ''in any manner or by any device'' for consistency in this section and to eliminate unnecessary words. In clauses (1) and (2), the word ''foreign'' is added for clarity because only foreign air transportation has regulated prices. In clause (1), the word ''rebate'' is substituted for ''refund or remittance'' for consistency in this section. In clause (2), the word ''favor'' is omitted as being included in ''privilege''.

§ 46310. Reporting and recordkeeping violations

(a) GENERAL CRIMINAL PENALTY.—An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18 for intentionally—

(1) failing to make a report or keep a record under this part;

(2) falsifying, mutilating, or altering a report or record under this part; or

(3) filing a false report or record under this part.

(b) SAFETY REGULATION CRIMINAL PENALTY.—An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18, imprisoned for not more than 5 years, or both, for intentionally falsifying or concealing a material fact, or inducing reliance on a false statement of material fact, in a report or record under section 44701(a) or (b) or any of sections 44702–44716 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1238; Pub. L. 103–429, § 6(56), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46310	49 App.:1472(e).	Aug. 23, 1958, Pub. L. 85–726, § 902(e), 72 Stat. 785; restated Sept. 30, 1987, Pub. L. 100–121, 101 Stat. 792.

In this section, the word ''representative'' is omitted as surplus. The words ''account'' and ''memorandum'' are omitted as being included in ''record''.

In subsection (a), before clause (1), the words ''fined under title 18'' are substituted for ''fined not more than $5,000 in the case of an individual and not more than $10,000 in the case of a person other than an individual'' for consistency in this section and with title 18.

In subsection (b), the words ''or representation'' are omitted a surplus.

PUB. L. 103–429

This amends 49:44711(a)(2)(B), (5), and (7) and 46310(b) to correct erroneous cross-references.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–429 inserted ''any of sections'' before ''44702–44716''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 46311. Unlawful disclosure of information

(a) CRIMINAL PENALTY.—The Secretary of Transportation, the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary, the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator, or an officer or employee of the Secretary, Under Secretary, or Administrator shall be fined under title 18, imprisoned for not more than 2 years, or both, if the Secretary, Under Secretary, Administrator, officer, or employee knowingly and willfully discloses information that—

(1) the Secretary, Under Secretary, Administrator, officer, or employee acquires when inspecting the records of an air carrier; or

(2) is withheld from public disclosure under section 40115 of this title.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply if—

(1) the officer or employee is directed by the Secretary, Under Secretary, or Administrator to disclose information that the Secretary, Under Secretary, or Administrator had ordered withheld; or

(2) the Secretary, Under Secretary, Administrator, officer, or employee is directed by a court of competent jurisdiction to disclose the information.

(c) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize the Secretary, Under Secretary, or Administrator to withhold information from a committee of Congress authorized to have the information.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1239; Pub. L. 107–71, title I, § 140(d)(6), Nov. 19, 2001, 115 Stat. 642.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46311(a), (b)	49 App.:1472(f) (words before proviso).	Aug. 23, 1958, Pub. L. 85–726, § 902(f), 72 Stat. 785.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46311(c)	49 App.:1472(f) (proviso).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 902(f) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 785) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''fined under title 18'' are substituted for ''a fine of not more than $5,000'' for consistency with title 18. The words ''upon conviction thereof be subject for each offense'' are omitted as surplus. The words ''any fact or'' are omitted as being included in ''information''. In clause (1), the words ''the Secretary, Administrator, officer, or employee acquires'' are substituted for ''may come to his knowledge'' for clarity and consistency.

In subsection (b)(2), the words ''or a judge thereof'' are omitted as surplus.

In subsection (c), the word ''duly'' is omitted as surplus.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71, § 140(d)(6), in introductory provisions, inserted ''the Under Secretary of Transportation for Security with respect to security

duties and powers designated to be carried out by the Under Secretary,'' after ''Transportation,'' and ''Under Secretary,'' after ''Secretary,'' and substituted '', Under Secretary, or Administrator'' for ''or Administrator''.

Subsec. (a)(1). Pub. L. 107–71, § 140(d)(6)(B) inserted ''Under Secretary,'' after ''Secretary,''.

Subsec. (b)(1). Pub. L. 107–71, § 140(d)(6)(C), substituted '', Under Secretary, or Administrator'' for ''or Administrator'' in two places.

Subsec. (b)(2). Pub. L. 107–71, § 140(d)(6)(B) inserted ''Under Secretary,'' after ''Secretary,''.

Subsec. (c). Pub. L. 107–71, § 140(d)(6)(C), substituted '', Under Secretary, or Administrator'' for ''or Administrator''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46312. Transporting hazardous material

(a) IN GENERAL.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, in violation of a regulation or requirement related to the transportation of hazardous material prescribed by the Secretary of Transportation under this part or chapter 51—

(1) willfully delivers, or causes to be delivered, property containing hazardous material to an air carrier or to an operator of a civil aircraft for transportation in air commerce; or

(2) recklessly causes the transportation in air commerce of the property.

(b) KNOWLEDGE OF REGULATIONS.—For purposes of subsection (a), knowledge by the person of the existence of a regulation or requirement related to the transportation of hazardous material prescribed by the Secretary under this part or chapter 51 is not an element of an offense under this section but shall be considered in mitigation of the penalty.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1239; Pub. L. 106–181, title V, § 507, Apr. 5, 2000, 114 Stat. 140; Pub. L. 109–59, title VII, § 7128(a), Aug. 10, 2005, 119 Stat. 1909.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46312	49 App.:1472(h)(2).	Aug. 23, 1958, Pub. L. 85–726, § 902(h)(2), 72 Stat. 785; restated Jan. 3, 1975, Pub. L. 93–633, § 113(c), 88 Stat. 2162.

In this section, before clause (1), the words ''is guilty of an offense'', ''Upon conviction'', and ''for each offense'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not more than $25,000'' for consistency with title 18. The word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code. In clause (1), the words ''shipment, baggage, or other'' are omitted as surplus.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59, § 7128(a)(1), substituted ''this part or chapter 51—'' for ''this part—'' in introductory provisions.

Subsec. (b). Pub. L. 109–59, § 7128(a)(2), inserted ''or chapter 51'' after ''under this part''.

2000—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 46313. Refusing to appear or produce records

A person not obeying a subpena or requirement of the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) to appear and testify or produce records shall be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1239; Pub. L. 107–71, title I, § 140(d)(7), Nov. 19, 2001, 115 Stat. 642.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46313	49 App.:1472(g).	Aug. 23, 1958, Pub. L. 85–726, § 902(g), 72 Stat. 785.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The word ''Administrator'' in section 902(g) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 785) is retained on authority of 49:106(g). The words ''not obeying'' are substituted for ''who shall neglect or refuse . . . or to answer any lawful inquiry . . . in obedience to'' to eliminate surplus words. The word ''lawful'' is omitted as surplus. The word ''appear'' is substituted for ''attend'' for clarity. The word ''records'' is substituted for ''books, papers, or documents'' for consistency in the revised title and with other titles of the United States Code. The words ''if in his power to do so'' are omitted as surplus. The words ''shall be guilty of a misdemeanor'' are omitted for consistency with title 18. The words ''and, upon conviction thereof'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not less than $100 nor more than $5,000'' for consistency with title 18.

AMENDMENTS

2001—Pub. L. 107–71 inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' after ''(or''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sec-

tions 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46314. Entering aircraft or airport area in violation of security requirements

(a) PROHIBITION.—A person may not knowingly and willfully enter, in violation of security requirements prescribed under section 44901, 44903(b) or (c), or 44906 of this title, an aircraft or an airport area that serves an air carrier or foreign air carrier.

(b) CRIMINAL PENALTY.—(1) A person violating subsection (a) of this section shall be fined under title 18, imprisoned for not more than one year, or both.

(2) A person violating subsection (a) of this section with intent to commit, in the aircraft or airport area, a felony under a law of the United States or a State shall be fined under title 18, imprisoned for not more than 10 years, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46314	49 App.:1472(r).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(r); added Dec. 30, 1987, Pub. L. 100–223, § 204(f)(2), 101 Stat. 1520.

In subsection (b), the words ''fined under title 18'' are substituted for ''a fine not to exceed $1,000'' and ''a fine not to exceed $10,000'' for consistency with title 18.

In subsection (b)(1), the words ''Upon conviction'' are omitted as surplus.

In subsection (b)(2), the words ''airport area'' are substituted for ''secured area'' for consistency in this section.

§ 46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) CRIMINAL PENALTY.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if—

(1) the person knowingly and willfully operates an aircraft in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration related to the display of navigation or anticollision lights;

(2) the person is knowingly transporting a controlled substance by aircraft or aiding or facilitating a controlled substance offense; and

(3) the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment for more than one year under a law of the United States or a State; or

(B) is provided in connection with an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46315(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
46315(b)	49 App.:1472(q).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(q); added Oct. 19, 1984, Pub. L. 98–499, § 5(a), 98 Stat. 2315; restated Oct. 27, 1986, Pub. L. 99–570, § 3401(b)(1), 100 Stat. 3207–100; Nov. 18, 1988, Pub. L. 100–690, § 7209(c)(1), (2)(A), 102 Stat. 4432.

In subsection (b), before clause (1), the words ''fined under title 18'' are substituted for ''a fine not exceeding $25,000'' for consistency with title 18. In clause (2), the word ''knowingly'' is substituted for ''and with knowledge of such act'' to eliminate unnecessary words.

§ 46316. General criminal penalty when specific penalty not provided

(a) CRIMINAL PENALTY.—Except as provided by subsection (b) of this section, when another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates this part, a regulation prescribed or order issued by the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part, or any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title shall be fined under title 18. A separate violation occurs for each day the violation continues.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply to chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), chapter 445, chapter 447 (except section 44718(a)), and chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1240; Pub. L. 104–287, § 5(79), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 105–102, § 3(d)(1)(D), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 107–71, title I, § 140(d)(7), Nov. 19, 2001, 115 Stat. 642.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46316	49 App.:1472(a).	Aug. 23, 1958, Pub. L. 85–726, § 902(a), 72 Stat. 784; restated July 10, 1962, Pub. L. 87–528, § 13, 76 Stat. 150.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In subsection (a), the word ''prescribed'' is added for consistency in the revised title. The words ''condition, or limitation of'' are omitted as surplus. The word ''Administrator'' in section 902(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g). The words ''or in section 1474

of this Appendix'' are omitted as surplus because 49 App.:1474 is not included in the revised title. The words ''shall be deemed guilty of a misdemeanor'' are omitted for consistency with title 18. The words ''and upon conviction thereof'' are omitted as surplus. The words ''shall be fined under title 18'' are substituted for ''shall be subject for the first offense to a fine of not more than $500, and for any subsequent offense to a fine of not more than $2,000'' for consistency with title 18.

In subsection (b), reference to 49 App.:ch. 20, subch. VII is omitted as unnecessary because subchapter VII is not restated in this part.

PUB. L. 104–287

This amends 49:46316(b) to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71 inserted ''the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'' after ''(or''.

1997—Subsec. (b). Pub. L. 105–102 amended directory language of Pub. L. 104–287. See 1996 Amendment note below.

1996—Subsec. (b). Pub. L. 104–287, as amended by Pub. L. 105–102, substituted ''chapter 447 (except section 44718(a)), and chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909)'' for ''and sections 44701(a) and (b), 44702–44716, 44901, 44903(b) and (c), 44905, 44906, 44912–44915, and 44932–44938''.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, § 3(d), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(d)(1)(D) is effective Oct. 11, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46317. Criminal penalty for pilots operating in air transportation without an airman's certificate

(a) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18 or imprisoned for not more than 3 years, or both, if that individual—

(1) knowingly and willfully serves or attempts to serve in any capacity as an airman operating an aircraft in air transportation without an airman's certificate authorizing the individual to serve in that capacity; or

(2) knowingly and willfully employs for service or uses in any capacity as an airman to operate an aircraft in air transportation an individual who does not have an airman's certificate authorizing the individual to serve in that capacity.

(b) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—

(1) CONTROLLED SUBSTANCES DEFINED.—In this subsection, the term ''controlled substance'' has the meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(2) CRIMINAL PENALTY.—An individual violating subsection (a) shall be fined under title 18 or imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and that transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment of more than 1 year under a Federal or State law; or

(B) is related to an act punishable by death or imprisonment for more than 1 year under a Federal or State law related to a controlled substance (except a law related to simple possession (as that term is used in section 46306(c)) of a controlled substance).

(3) TERMS OF IMPRISONMENT.—A term of imprisonment imposed under paragraph (2) shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual subject to the imprisonment.

(Added Pub. L. 106–181, title V, § 509(a), Apr. 5, 2000, 114 Stat. 141.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 46318. Interference with cabin or flight crew

(a) GENERAL RULE.—An individual who physically assaults or threatens to physically assault a member of the flight crew or cabin crew of a civil aircraft or any other individual on the aircraft, or takes any action that poses an imminent threat to the safety of the aircraft or other individuals on the aircraft is liable to the United States Government for a civil penalty of not more than $25,000.

(b) COMPROMISE AND SETOFF.—

(1) COMPROMISE.—The Secretary may compromise the amount of a civil penalty imposed under this section.

(2) SETOFF.—The United States Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts the Government owes the person liable for the penalty.

(Added Pub. L. 106–181, title V, § 511(a), Apr. 5, 2000, 114 Stat. 142.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 46319. Permanent closure of an airport without providing sufficient notice

(a) PROHIBITION.—A public agency (as defined in section 47102) may not permanently close an

airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

(b) PUBLICATION OF NOTICE.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

(c) CIVIL PENALTY.—A public agency violating subsection (a) shall be liable for a civil penalty of $10,000 for each day that the airport remains closed without having given the notice required by this section.

(Added Pub. L. 108–176, title I, § 185(a), Dec. 12, 2003, 117 Stat. 2517.)

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

CHAPTER 465—SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

Sec.
46501. Definitions.
46502. Aircraft piracy.
46503. Interference with security screening personnel.
46503. Repealed.[1]
46504. Interference with flight crew members and attendants.
46505. Carrying a weapon or explosive on an aircraft.
46506. Application of certain criminal laws to acts on aircraft.
46507. False information and threats.

AMENDMENTS

2001—Pub. L. 107–71, title I, § 114(b), Nov. 19, 2001, 115 Stat. 623, added item 46503 ''Interference with security screening personnel''.

1994—Pub. L. 103–322, title VI, § 60003(b)(1), Sept. 13, 1994, 108 Stat. 1970, substituted ''Repealed'' for ''Death penalty sentencing procedure for aircraft piracy'' in item 46503.

§ 46501. Definitions

In this chapter—

(1) ''aircraft in flight'' means an aircraft from the moment all external doors are closed following boarding—

(A) through the moment when one external door is opened to allow passengers to leave the aircraft; or

(B) until, if a forced landing, competent authorities take over responsibility for the aircraft and individuals and property on the aircraft.

(2) ''special aircraft jurisdiction of the United States'' includes any of the following aircraft in flight:

(A) a civil aircraft of the United States.

(B) an aircraft of the armed forces of the United States.

(C) another aircraft in the United States.

(D) another aircraft outside the United States—

(i) that has its next scheduled destination or last place of departure in the United States, if the aircraft next lands in the United States;

(ii) on which an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) if the aircraft lands in the United States with the individual still on the aircraft; or

(iii) against which an individual commits 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) if the aircraft lands in the United States with the individual still on the aircraft.

(E) any other aircraft leased without crew to a lessee whose principal place of business is in the United States or, if the lessee does not have a principal place of business, whose permanent residence is in the United States.

(3) an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) when the individual, when on an aircraft in flight—

(A) by any form of intimidation, unlawfully seizes, exercises control of, or attempts to seize or exercise control of, the aircraft; or

(B) is an accomplice of an individual referred to in subclause (A) of this clause.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46501(1)	49 App.:1301(38) (words after 10th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 101(38); added Oct. 14, 1970, Pub. L. 91–449, § 1(1), 84 Stat. 921; restated Aug. 5, 1974, Pub. L. 93–366, §§ 102, 206, 88 Stat. 409, 419; Nov. 9, 1977, Pub. L. 95–163, § 17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, § 2(b), 92 Stat. 1705; Oct. 12, 1984, Pub. L. 98–473, § 2013(c), 98 Stat. 2189.
	49 App.:1472(n)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(n)(2), (4); added Aug. 5, 1974, Pub. L. 93–366, § 103(b), 88 Stat. 410, 411.
46501(2)	49 App.:1301(38) (words before 10th comma).	
46501(3)	49 App.:1472(n)(2).	

In clause (2), before subclause (A), the words ''any of the following'' are substituted for ''includes'' for clarity. In subclause (B), the words ''armed forces'' are substituted for ''national defense forces'' because of 10:101. In subclause (D)(i), the word ''place'' is substituted for ''point'' for consistency in the revised title. The word ''actually'' is omitted as surplus. In subclause (D)(ii), the words ''on which an individual commits'' are substituted for ''having . . . committed aboard'' for clarity. In subclause (D)(iii), the words ''against which an individual commits'' are substituted for ''regarding which an offense . . . is committed'' for clarity. The words ''(Montreal, September 23, 1971)'' are omitted as surplus. In subclause (E), the words ''the lessee does not have a principal place of business'' are substituted for ''none'' for clarity.

In clause (3), the words ''by force or threat thereof, or . . . other'' are omitted as surplus.

[1] So in original. This item probably should not appear.

§ 46502. Aircraft piracy

(a) IN SPECIAL AIRCRAFT JURISDICTION.—(1) In this subsection—

(A) ''aircraft piracy'' means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent.

(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

(2) An individual committing or attempting or conspiring to commit aircraft piracy—

(A) shall be imprisoned for at least 20 years; or

(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION.—(1) An individual committing or conspiring to commit an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States—

(A) shall be imprisoned for at least 20 years; or

(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(2) There is jurisdiction over the offense in paragraph (1) if—

(A) a national of the United States was aboard the aircraft;

(B) an offender is a national of the United States; or

(C) an offender is afterwards found in the United States.

(3) For purposes of this subsection, the term ''national of the United States'' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1241; Pub. L. 103–429, § 6(61), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–132, title VII, §§ 721(a), 723(b), Apr. 24, 1996, 110 Stat. 1298, 1300.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46502(a)(1) ..	49 App.:1472(i)(2), (3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(i); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, § 1(3), 84 Stat. 921; Aug. 5, 1974, Pub. L. 93–366, §§ 103(a), 104, 88 Stat. 410, 411.
46502(a)(2) ..	49 App.:1472(i)(1).	
46502(b)(1) ..	49 App.:1472(n)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(n)(1), (3); added Aug. 5, 1974, Pub. L. 93–366, § 103(b), 88 Stat. 410.
46502(b)(2) ..	49 App.:1472(n)(3).	

In subsection (a)(1)(B), the words ''offense of'' are omitted as surplus.

In subsection (a)(2), the words ''as herein defined'' are omitted as surplus.

In subsection (b)(2), the words ''the place of actual'' are omitted as surplus. The words ''as defined in paragraph (2) of this subsection'' are omitted because of the restatement. The word ''country'' is substituted for ''State'' for consistency in the revised title and with other titles of the United States Code.

PUB. L. 103–429

This amends 49:46502(a)(2)(B) and (b)(1)(B) to clarify the restatement of 49 App.:1472(i)(1)(B) and (n)(1)(B) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1241, 1242).

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–132, § 723(b)(1), inserted ''or conspiring'' after ''attempting''.

Subsec. (b)(1). Pub. L. 104–132, §§ 721(a)(1), 723(b)(2), in introductory provisions, inserted ''or conspiring to commit'' after ''committing'' and struck out ''and later found in the United States'' after ''jurisdiction of the United States''.

Subsec. (b)(2). Pub. L. 104–132, § 721(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''This subsection applies only if the place of takeoff or landing of the aircraft on which the individual commits the offense is located outside the territory of the country of registration of the aircraft.''

Subsec. (b)(3). Pub. L. 104–132, § 721(a)(3), added par. (3).

1994—Subsecs. (a)(2)(B), (b)(1)(B). Pub. L. 103–429 inserted ''notwithstanding section 3559(b) of title 18,'' before ''if the death''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

DEATH PENALTY PROCEDURES FOR CERTAIN AIR PIRACY CASES OCCURRING BEFORE ENACTMENT OF THE FEDERAL DEATH PENALTY ACT OF 1994

Pub. L. 109–177, title II, § 211, Mar. 9, 2006, 120 Stat. 230, provided that:

''(a) IN GENERAL.—Section 60003 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended, as of the time of its enactment [Sept. 13, 1994], by adding at the end the following:

'' '(c) [Omitted, see below.]'.

''(b) SEVERABILITY CLAUSE.—If any provision of section 60003(b)(2) of the Violent Crime and Law Enforcement Act of 1994 (Public Law 103–322) [repealed section 46503 of this title], or the application thereof to any person or any circumstance is held invalid, the remainder of such section and the application of such section to other persons or circumstances shall not be affected thereby.''

Pub. L. 103–322, title VI, § 60003(c), as added by Pub. L. 109–177, title II, § 211(a), Mar. 9, 2006, 120 Stat. 230, provided that:

''(c) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) [Sept. 13, 1994], but after the enactment of the Antihijacking Act of 1974 (Public Law 93–366) [Aug. 5, 1974], it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Gov-

ernment to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term 'especially heinous, cruel, or depraved', as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language 'in that it involved torture or serious physical abuse to the victim', and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.''

AIRCRAFT PIRACY

The United States is a party to the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague, Dec. 16, 1970, entered into force as to the United States, Oct. 14, 1971, 22 UST 1641.

§ 46503. Interference with security screening personnel

An individual in an area within a commercial service airport in the United States who, by assaulting a Federal, airport, or air carrier employee who has security duties within the airport, interferes with the performance of the duties of the employee or lessens the ability of the employee to perform those duties, shall be fined under title 18, imprisoned for not more than 10 years, or both. If the individual used a dangerous weapon in committing the assault or interference, the individual may be imprisoned for any term of years or life imprisonment.

(Added Pub. L. 107–71, title I, § 114(a), Nov. 19, 2001, 115 Stat. 623.)

PRIOR PROVISIONS

A prior section 46503, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1242, provided for death penalty sentencing procedure for individuals convicted of aircraft piracy, prior to repeal by Pub. L. 103–322, title VI, § 60003(b)(2), Sept. 13, 1994, 108 Stat. 1970.

§ 46504. Interference with flight crew members and attendants

An individual on an aircraft in the special aircraft jurisdiction of the United States who, by assaulting or intimidating a flight crew member or flight attendant of the aircraft, interferes with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, or attempts or conspires to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or both. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1244; Pub. L. 107–56, title VIII, § 811(i), Oct. 26, 2001, 115 Stat. 382.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46504	49 App.:1472(j).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(j); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, § 1(3), 84 Stat. 921.

The words ''or threatens'' are omitted as being included in ''intimidating''. The words ''(including any steward or stewardess)'' are omitted as being included in ''attendant''. The words ''fined under title 18'' are substituted for ''fined not more than $10,000'' for consistency with title 18. The words ''deadly or'' are omitted as surplus.

AMENDMENTS

2001—Pub. L. 107–56 inserted ''or attempts or conspires to do such an act,'' before ''shall be fined under title 18,''.

§ 46505. Carrying a weapon or explosive on an aircraft

(a) DEFINITION.—In this section, ''loaded firearm'' means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than 10 years, or both, if the individual—

(1) when on, or attempting to get on, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight;

(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

(c) CRIMINAL PENALTY INVOLVING DISREGARD FOR HUMAN LIFE.—An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be fined under title 18, imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

(d) NONAPPLICATION.—Subsection (b)(1) of this section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

(2) another individual the Administrator of the Federal Aviation Administration or the Under Secretary of Transportation for Security by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon.

(e) CONSPIRACY.—If two or more persons conspire to violate subsection (b) or (c), and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in such subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1244; Pub. L. 104–132, title VII, § 705(b), Apr. 24, 1996,

110 Stat. 1295; Pub. L. 107–56, title VIII, §§ 810(g), 811(j), Oct. 26, 2001, 115 Stat. 381, 382; Pub. L. 107–71, title I, § 140(d)(8), Nov. 19, 2001, 115 Stat. 642.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46505(a)	49 App.:1472(*l*)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(4); added Feb. 18, 1980, Pub. L. 96–193, § 502(c), 94 Stat. 59.
46505(b)	49 App.:1472(*l*)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(1); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; Aug. 5, 1974, Pub. L. 93–366, § 203, 88 Stat. 417; restated Feb. 18, 1980, Pub. L. 96–193, § 502(a), 94 Stat. 59; Oct. 12, 1984, Pub. L. 98–473, § 2014(c)(1), 98 Stat. 2189.
46505(c)	49 App.:1472(*l*)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(2); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; restated Aug. 5, 1974, Pub. L. 93–366, § 203, 88 Stat. 418; Oct. 12, 1984, Pub. L 98–473, § 2014(c)(2), 98 Stat. 2189.
46505(d)	49 App.:1472(*l*)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(3); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; restated Aug. 5, 1974, Pub. L. 93–366, § 203, 88 Stat. 418; Feb. 18, 1980, Pub. L. 96–193, § 502(b), 94 Stat. 59.

In subsection (a), the definition of ''firearm'' is merged with the definition of ''loaded firearm'' because the term ''firearm'' is only used in the defined term ''loaded firearm''.

In subsections (b) and (c), the words ''fined under title 18'' are substituted for ''fined not more than $10,000'' and ''fined not more than $25,000'' for consistency with title 18.

In subsections (b)(1) and (d)(2), the words ''deadly or'' are omitted as surplus.

In subsection (b)(2), the words ''baggage or other'' are omitted as surplus.

In subsection (b)(3), the words ''bomb or similar'' are omitted as surplus.

In subsection (d)(1), the words ''State or political subdivision of a State'' are substituted for ''municipal or State government'' for consistency in the revised title and with other titles of the United States Code. The words ''or required'' are omitted as surplus.

In subsection (d)(3), the word ''contained'' is omitted as surplus.

AMENDMENTS

2001—Subsec. (c). Pub. L. 107–56, § 810(g), substituted ''20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.'' for ''15 years, or both.''

Subsec. (d)(2). Pub. L. 107–71, § 140(d)(8), inserted ''or the Under Secretary of Transportation for Security'' after ''Federal Aviation Administration''.

Subsec. (e). Pub. L. 107–56, § 811(j), added subsec. (e).

1996—Subsec. (b). Pub. L. 104–132, § 705(b)(1), substituted ''10 years'' for ''one year''.

Subsec. (c). Pub. L. 104–132, § 705(b)(2), substituted ''15 years'' for ''5 years''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46506. Application of certain criminal laws to acts on aircraft

An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that—

(1) if committed in the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18) would violate section 113, 114, 661, 662, 1111, 1112, 1113, or 2111 or chapter 109A of title 18, shall be fined under title 18, imprisoned under that section or chapter, or both; or

(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code § 22-1112), shall be fined under title 18, imprisoned under section 9 of the Act, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46506	49 App.:1472(k).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(k); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, § 1(3), 84 Stat. 921; Nov. 10, 1986, Pub. L. 99–646, § 87(d)(8), 100 Stat. 3624; Nov. 14, 1986, Pub. L. 99–654, § 3(b)(8), 100 Stat. 3664.

In clause (1), the words ''fined under title 18, imprisoned under that section or chapter, or both'' are substituted for ''punished as provided therein'' for consistency with title 18.

In clause (2), the words ''fined under title 18, imprisoned under section 9 of the Act, or both'' are substituted for ''punished as provided therein'' for consistency with title 18.

REFERENCES IN TEXT

Section 9 of the Act of July 29, 1892, referred to in par. (2), is section 9 of act July 29, 1892, ch. 320, 27 Stat. 324, as amended, which is not classified to the Code.

§ 46507. False information and threats

An individual shall be fined under title 18, imprisoned for not more than 5 years, or both, if the individual—

(1) knowing the information to be false, willfully and maliciously or with reckless disregard for the safety of human life, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title; or

(2)(A) threatens to violate section 46502(a), 46504, 46505, or 46506 of this title, or causes a threat to violate any of those sections to be made; and

(B) has the apparent determination and will to carry out the threat.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46507	49 App.:1472(m).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(m); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 467; restated Oct. 12, 1984, Pub. L. 98–473, § 2014(d)(1), 98 Stat. 2190.

In this section, before clause (1), the words ''fined under title 18'' are substituted for ''fined not more than $25,000'' for consistency with title 18. In clauses (1) and (2), the words ''a felony'' are omitted as surplus. In clause (1), the words ''gives, or causes to be given'' are substituted for ''imparts or conveys or causes to be imparted or conveyed'' to eliminate unnecessary words. The words ''attempt or'' are omitted as surplus. In clause (2), the words ''threatens . . . or causes a threat . . . to be made'' are substituted for ''imparts or conveys or causes to be imparted or conveyed any threat'' to eliminate unnecessary words.

PART B—AIRPORT DEVELOPMENT AND NOISE

CHAPTER 471—AIRPORT DEVELOPMENT

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AMENDMENTS

2003—Pub. L. 108–176, title I, §§ 152(b), 158(b), 159(a)(2), 160(b), 181(b), title III, § 304(b), Dec. 12, 2003, 117 Stat. 2507, 2509, 2510, 2513, 2515, 2538, added items 47138 to 47142, subchapter III heading, and items 47171 to 47175.

2000—Pub. L. 106–181, title I, §§ 123(a)(2), 132(b), 133(b), 134(b), 135(d)(4), Apr. 5, 2000, 114 Stat. 74, 81–83, 85, struck out item 47132 ''Pavement maintenance'', added items 47135 to 47137, and substituted ''conveyances'' for ''gifts'' in item 47152.

1996—Pub. L. 104–264, title I, §§ 142(c), 147(c)(2), 149(a)(2), title VIII, § 804(c), Oct. 9, 1996, 110 Stat. 3221, 3223, 3226, 3271, substituted ''grant program'' for ''grant pilot program'' in item 47128 and added items 47132, 47133, and 47134.

1994—Pub. L. 103–305, title I, §§ 113(b), 118(b), Aug. 23, 1994, 108 Stat. 1579, 1580, added items 47129 and 47130 and redesignated former item 47129 as 47131.

SUBCHAPTER I—AIRPORT IMPROVEMENT

§ 47101. Policies

(a) GENERAL.—It is the policy of the United States—

(1) that the safe operation of the airport and airway system is the highest aviation priority;

(2) that aviation facilities be constructed and operated to minimize current and projected noise impact on nearby communities;

(3) to give special emphasis to developing reliever airports;

(4) that appropriate provisions should be made to make the development and enhancement of cargo hub airports easier;

(5) to encourage the development of intermodal connections on airport property between aeronautical and other transportation modes and systems to serve air transportation passengers and cargo efficiently and effectively and promote economic development;

(6) that airport development projects under this subchapter provide for the protection and enhancement of natural resources and the quality of the environment of the United States;

(7) that airport construction and improvement projects that increase the capacity of facilities to accommodate passenger and cargo

traffic be undertaken to the maximum feasible extent so that safety and efficiency increase and delays decrease;

(8) to ensure that nonaviation usage of the navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system;

(9) that artificial restrictions on airport capacity—

(A) are not in the public interest;

(B) should be imposed to alleviate air traffic delays only after other reasonably available and less burdensome alternatives have been tried; and

(C) should not discriminate unjustly between categories and classes of aircraft;

(10) that special emphasis should be placed on converting appropriate former military air bases to civil use and identifying and improving additional joint-use facilities;

(11) that the airport improvement program should be administered to encourage projects that employ innovative technology (including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices), concepts, and approaches that will promote safety, capacity, and efficiency improvements in the construction of airports and in the air transportation system (including the development and use of innovative concrete and other materials in the construction of airport facilities to minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability) and to encourage and solicit innovative technology proposals and activities in the expenditure of funding pursuant to this subchapter;

(12) that airport fees, rates, and charges must be reasonable and may only be used for purposes not prohibited by this subchapter; and

(13) that airports should be as self-sustaining as possible under the circumstances existing at each particular airport and in establishing new fees, rates, and charges, and generating revenues from all sources, airport owners and operators should not seek to create revenue surpluses that exceed the amounts to be used for airport system purposes and for other purposes for which airport revenues may be spent under section 47107(b)(1) of this title, including reasonable reserves and other funds to facilitate financing and cover contingencies.

(b) NATIONAL TRANSPORTATION POLICY.—(1) It is a goal of the United States to develop a national intermodal transportation system that transports passengers and property in an efficient manner. The future economic direction of the United States depends on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, and the need to rebuild the infrastructure of the United States.

(2) United States leadership in the world economy, the expanding wealth of the United States, the competitiveness of the industry of the United States, the standard of living, and the quality of life are at stake.

(3) A national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation that transports passengers and property in the most efficient manner. By reducing transportation costs, these intermodal systems will enhance the ability of the industry of the United States to compete in the global marketplace.

(4) All forms of transportation, including aviation and other transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development.

(5) An intermodal transportation system consists of transportation hubs that connect different forms of appropriate transportation and provides users with the most efficient means of transportation and with access to commercial centers, business locations, population centers, and the vast rural areas of the United States, as well as providing links to other forms of transportation and to intercity connections.

(6) Intermodality and flexibility are paramount issues in the process of developing an integrated system that will obtain the optimum yield of United States resources.

(7) The United States transportation infrastructure must be reshaped to provide the economic underpinnings for the United States to compete in the 21st century global economy. The United States can no longer rely on the sheer size of its economy to dominate international economic rivals and must recognize fully that its economy is no longer a separate entity but is part of the global marketplace. The future economic prosperity of the United States depends on its ability to compete in an international marketplace that is teeming with competitors but in which a full one-quarter of the economic activity of the United States takes place.

(8) The United States must make a national commitment to rebuild its infrastructure through development of a national intermodal transportation system. The United States must provide the foundation for its industries to improve productivity and their ability to compete in the global economy with a system that will transport passengers and property in an efficient manner.

(c) CAPACITY EXPANSION AND NOISE ABATEMENT.—It is in the public interest to recognize the effects of airport capacity expansion projects on aircraft noise. Efforts to increase capacity through any means can have an impact on surrounding communities. Noncompatible land uses around airports must be reduced and efforts to mitigate noise must be given a high priority.

(d) CONSISTENCY WITH AIR COMMERCE AND SAFETY POLICIES.—Each airport and airway program should be carried out consistently with section 40101(a), (b), (d), and (f) of this title to foster competition, prevent unfair methods of competition in air transportation, maintain essential air transportation, and prevent unjust and discriminatory practices, including as the practices may be applied between categories and classes of aircraft.

(e) ADEQUACY OF NAVIGATION AIDS AND AIRPORT FACILITIES.—This subchapter should be carried

out to provide adequate navigation aids and airport facilities for places at which scheduled commercial air service is provided. The facilities provided may include—

(1) reliever airports; and

(2) heliports designated by the Secretary of Transportation to relieve congestion at commercial service airports by diverting aircraft passengers from fixed-wing aircraft to helicopter carriers.

(f) MAXIMUM USE OF SAFETY FACILITIES.—This subchapter should be carried out consistently with a comprehensive airspace system plan, giving highest priority to commercial service airports, to maximize the use of safety facilities, including installing, operating, and maintaining, to the extent possible with available money and considering other safety needs—

(1) electronic or visual vertical guidance on each runway;

(2) grooving or friction treatment of each primary and secondary runway;

(3) distance-to-go signs for each primary and secondary runway;

(4) a precision approach system, a vertical visual guidance system, and a full approach light system for each primary runway;

(5) a nonprecision instrument approach for each secondary runway;

(6) runway end identifier lights on each runway that does not have an approach light system;

(7) a surface movement radar system at each category III airport;

(8) a taxiway lighting and sign system;

(9) runway edge lighting and marking;

(10) radar approach coverage for each airport terminal area; and

(11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways.

(g) INTERMODAL PLANNING.—To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall take each of the following actions:

(1) COORDINATION IN DEVELOPMENT OF AIRPORT PLANS AND PROGRAMS.—Cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.

(2) GOALS FOR AIRPORT MASTER AND SYSTEM PLANS.—Encourage airport sponsors and State and local officials to develop airport master plans and airport system plans that—

(A) foster effective coordination between aviation planning and metropolitan planning;

(B) include an evaluation of aviation needs within the context of multimodal planning; and

(C) are integrated with metropolitan plans to ensure that airport development proposals include adequate consideration of land use and ground transportation access.

(3) REPRESENTATION OF AIRPORT OPERATORS ON MPO'S.—Encourage metropolitan planning organizations, particularly in areas with populations greater than 200,000, to establish membership positions for airport operators.

(h) CONSULTATION.—To carry out the policy of subsection (a)(6) of this section, the Secretary of Transportation shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency about any project included in a project grant application involving the location of an airport or runway, or a major runway extension, that may have a significant effect on—

(1) natural resources, including fish and wildlife;

(2) natural, scenic, and recreation assets;

(3) water and air quality; or

(4) another factor affecting the environment.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1246; Pub. L. 103–305, title I, §§ 104, 110, Aug. 23, 1994, 108 Stat. 1571, 1573; Pub. L. 103–429, § 6(62), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, § 141, Oct. 9, 1996, 110 Stat. 3220; Pub. L. 106–181, title I, §§ 121(a), (b), 137(a), Apr. 5, 2000, 114 Stat. 74, 85.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47101(a)(1) ..	49 App.:2201(a)(1), (2).	Sept. 3, 1982, Pub. L. 97–248, §§ 502(a)(1)–(3), (6), (b), 509(b)(5) (1st sentence, last sentence words before 11th comma), 96 Stat. 671, 672, 684.
	49 App.:2201(a)(9).	Sept. 3, 1982, Pub. L. 97–248, § 502(a)(9), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 102(b)(1), (c)(1), 101 Stat. 1487.
	49 App.:2201(a)(10).	Sept. 3, 1982, Pub. L. 97–248, § 502(a)(10), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 102(b)(1), (c)(2), 101 Stat. 1487.
47101(a)(2) ..	49 App.:2201(a)(8).	Sept. 3, 1982, Pub. L. 97–248, § 502(a)(8), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 102(b)(1), 101 Stat. 1487.
47101(a)(3) ..	49 App.:2201(a)(6).	
47101(a)(4) ..	49 App.:2201(a)(7).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 502(a)(7); added Dec. 30, 1987, Pub. L. 100–223, § 102(b)(2), 101 Stat. 1487.
47101(a)(5) ..	49 App.:2201(b) (1st sentence).	
47101(a)(6) ..	49 App.:2208(b)(5) (1st sentence).	
47101(a)(7) ..	49 App.:2201(a)(11).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 502(a)(11); added Dec. 30, 1987, Pub. L. 100–223, § 102(c)(3), 101 Stat. 1488.
47101(a)(8) ..	49 App.:2201(a)(12).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 502(a)(12); added Dec. 30, 1987, Pub. L. 100–223, § 102(c)(3), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, § 9109(a)(1), 104 Stat. 1388–356.
47101(a)(9) ..	49 App.:2201(a)(13).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 502(a)(13); added Dec. 30, 1987, Pub. L. 100–223, § 102(c)(3), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, §§ 9103(2), 9109(a)(2), 104 Stat. 1388–354, 1388–356.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47101(a)(10)	49 App.:2201(a)(14).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(a)(14); added Nov. 5, 1990, Pub. L. 101–508, §9109(a)(3), 104 Stat. 1388–356.
47101(b)	49 App.:2201(c).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(c), (d); added Oct. 31, 1992, Pub. L. 102–581, §101, 106 Stat. 4875.
47101(c)	49 App.:2201(d).	
47101(d)	49 App.:2201(a)(5).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(5), 96 Stat. 671; Nov. 5, 1990, Pub. L. 101–508, §9103(1), 104 Stat. 1388–354.
47101(e)	49 App.:2201(a)(3). 49 App.:2202(a)(20).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(20), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
47101(f)	49 App.:2201(a)(4).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(4), 96 Stat. 671; Dec. 30, 1987, Pub. L. 100–223, §102(a), 101 Stat. 1487.
47101(g)	49 App.:2201(b) (2d, last sentences).	
47101(h)	49 App.:2208(b)(5) (last sentence words before 11th comma).	

In subsection (a), before clause (1), the text of 49 App.:2201(a)(2), (9), and (10) is omitted as executed. The words ''It is the policy of the United States'' are substituted for ''The Congress hereby . . . declares'' in 49 App.:2201(a) (words before cl. (1)), ''it is in the national interest'' in 49 App.:2201(a)(12), ''are not in the public interest and'' in 49 App.:2201(a)(13), ''It is declared to be in the national interest to'' in 49 App.:2201(b), and ''It is declared to be national policy that'' in 49 App.:2208(b)(5) for consistency in the revised title and with other titles of the United States Code. In clause (1), the word ''is'' is substituted for ''will continue to be'' to eliminate unnecessary words. In clause (2), the words ''with due regard'' are omitted as surplus. In clause (3), the words ''reliever airports make an important contribution to the efficient operation of the airport and airway system'' are omitted as executed. In clause (4), the words ''cargo hub airports play a critical role in the movement of commerce through the airport and airway system'' are omitted as executed. In clause (5), the words ''and promote'' are omitted as surplus.

In subsection (d), the word ''to'' is substituted for ''with due regard for the goals expressed therein of'' to eliminate unnecessary words.

In subsection (e), before clause (1), the words ''The facilities provided may include'' are substituted for ''including'' because of the restatement. Clause (2) is substituted for ''reliever heliports'' to incorporate the definition of that term from 49 App.:2202(a)(19) into this subsection.

In subsection (f), before clause (1), the words ''the goal of'' are omitted as surplus.

In subsection (g), the words ''formulated'' and ''due'' are omitted as surplus. The words ''process of developing airport plans and programs'' are substituted for ''process'' for clarity.

PUB. L. 103–429

This amends 49:47101(a)(12) to translate a cross-reference to the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 671) to the corresponding cross-reference of title 49, United States Code.

AMENDMENTS

2000—Subsec. (a)(5). Pub. L. 106–181, §137(a), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''to encourage the development of transportation systems that use various modes of transportation in a way that will serve the States and local communities efficiently and effectively;''.

Subsec. (a)(11). Pub. L. 106–181, §121(a), inserted ''(including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices)'' after ''employ innovative technology''.

Subsec. (f)(11). Pub. L. 106–181, §121(b), added par. (11).

1996—Subsec. (g). Pub. L. 104–264 substituted ''INTERMODAL PLANNING'' for ''COOPERATION'' in heading and amended text generally. Prior to amendment, text read as follows: ''To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.''

1994—Subsec. (a)(11). Pub. L. 103–305, §104, added par. (11).

Subsec. (a)(12). Pub. L. 103–429 substituted ''subchapter'' for ''Act''.

Pub. L. 103–305, §110, added par. (12).

Subsec. (a)(13). Pub. L. 103–305, §110, added par. (13).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

AVAILABILITY OF GATES AND OTHER ESSENTIAL SERVICES

Pub. L. 106–181, title I, §155(d), Apr. 5, 2000, 114 Stat. 89, provided that: ''The Secretary [of Transportation] shall ensure that gates and other facilities are made available at costs that are fair and reasonable to air carriers at covered airports (as defined in section 47106(f)(4) [47106(f)(3)] of title 49, United States Code) where a 'majority-in-interest clause' of a contract or other agreement or arrangement inhibits the ability of the local airport authority to provide or build new gates or other facilities.''

CONSTRUCTION OF RUNWAYS

Pub. L. 106–181, title I, §158, Apr. 5, 2000, 114 Stat. 90, provided that: ''Notwithstanding any provision of law that specifically restricts the number of runways at a single international airport, the Secretary [of Transportation] may obligate funds made available under chapters 471 and 481 of title 49, United States Code, for any project to construct a new runway at such airport, unless this section is expressly repealed.''

INNOVATIVE FINANCING TECHNIQUES

Pub. L. 104–264, title I, §148, Oct. 9, 1996, 110 Stat. 3223, authorized the Secretary of Transportation until Sept. 30, 1998, to carry out a demonstration program to provide information on the use of innovative financing

techniques for airport development projects to Congress and the National Civil Aviation Review Commission. See section 47135 of this title.

AUTHORITY TO CLOSE AIRPORT LOCATED NEAR CLOSED OR REALIGNED MILITARY BASE

Section 1203 of Pub. L. 104–264 provided that: ''Notwithstanding any other provision of a law, rule, or grant assurance, an airport that is not a commercial service airport may be closed by its sponsor without any obligation to repay grants made under chapter 471 of title 49, United States Code, the Airport and Airway Improvement Act of 1982 [see References in Text note set out under section 47108 of this title], or any other law if the airport is located within 2 miles of a United States Army depot which has been closed or realigned; except that in the case of disposal of the land associated with the airport, the part of the proceeds from the disposal that is proportional to the Government's share of the cost of acquiring the land shall be paid to the Secretary of Transportation for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502).''

STUDY ON INNOVATIVE FINANCING

Section 520 of Pub. L. 103–305 provided that:

''(a) STUDY.—The Secretary shall conduct a study on innovative approaches for using Federal funds to finance airport development as a means of supplementing financing available under the Airport Improvement Program.

''(b) MATTERS TO BE CONSIDERED.—In conducting the study under subsection (a), the Secretary shall consider, at a minimum, the following:

''(1) Mechanisms that will produce greater investments in airport development per dollar of Federal expenditure.

''(2) Approaches that would permit entering into agreements with non-Federal entities, such as airport sponsors, for the loan of Federal funds, guarantee of loan repayment, or purchase of insurance or other forms of enhancement for borrower debt, including the use of unobligated Airport Improvement Program contract authority and unobligated balances in the Airport and Airway Trust Fund.

''(3) Means to lower the cost of financing airport development.

''(c) CONSULTATION.—In considering innovative financing pursuant to this section, the Secretary may consult with airport owners and operators and public and private sector experts.

''(d) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act [Aug. 23, 1994], the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).''

§ 47102. Definitions

In this subchapter—

(1) ''air carrier airport'' means a public airport regularly served by—

(A) an air carrier certificated by the Secretary of Transportation under section 41102 of this title (except a charter air carrier); or

(B) at least one air carrier—

(i) operating under an exemption from section 41101(a)(1) of this title that the Secretary grants; and

(ii) having at least 2,500 passenger boardings at the airport during the prior calendar year.

(2) ''airport''—

(A) means—

(i) an area of land or water used or intended to be used for the landing and taking off of aircraft;

(ii) an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; and

(iii) airport buildings and facilities located in any of those areas; and

(B) includes a heliport.

(3) ''airport development'' means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) constructing, repairing, or improving a public-use airport, including—

(i) removing, lowering, relocating, marking, and lighting an airport hazard; and

(ii) preparing a plan or specification, including carrying out a field investigation.

(B) acquiring for, or installing at, a public-use airport—

(i) a navigation aid or another aid (including a precision approach system) used by aircraft for landing at or taking off from the airport, including preparing the site as required by the acquisition or installation;

(ii) safety or security equipment, including explosive detection devices, universal access systems, and emergency call boxes, the Secretary requires by regulation for, or approves as contributing significantly to, the safety or security of individuals and property at the airport and integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices;

(iii) equipment to remove snow, to measure runway surface friction, or for aviation-related weather reporting, including closed circuit weather surveillance equipment if the airport is located in Alaska;

(iv) firefighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats;

(v) aircraft deicing equipment and structures (except aircraft deicing fluids and storage facilities for the equipment and fluids);

(vi) interactive training systems;

(vii) windshear detection equipment that is certified by the Administrator of the Federal Aviation Administration;

(viii) stainless steel adjustable lighting extensions approved by the Administrator;

(ix) engineered materials arresting systems as described in the Advisory Circular No. 150/5220–22 published by the Federal Aviation Administration on August 21, 1998, including any revision to the circular; and

(x) replacement of baggage conveyor systems, and reconfiguration of terminal baggage areas, that the Secretary determines are necessary to install bulk explosive detection devices; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114.

(C) acquiring an interest in land or airspace, including land for future airport development, that is needed—

(i) to carry out airport development described in subclause (A) or (B) of this clause; or

(ii) to remove or mitigate an existing airport hazard or prevent or limit the creation of a new airport hazard.

(D) acquiring land for, or constructing, a burn area training structure on or off the airport to provide live fire drill training for aircraft rescue and firefighting personnel required to receive the training under regulations the Secretary prescribes, including basic equipment and minimum structures to support the training under standards the Administrator of the Federal Aviation Administration prescribes.

(E) relocating after December 31, 1991, an air traffic control tower and any navigational aid (including radar) if the relocation is necessary to carry out a project approved by the Secretary under this subchapter or under section 40117.

(F) constructing, reconstructing, repairing, or improving an airport, or purchasing capital equipment for an airport, if necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), except constructing or purchasing capital equipment that would benefit primarily a revenue-producing area of the airport used by a nonaeronautical business.

(G) acquiring land for, or work necessary to construct, a pad suitable for deicing aircraft before takeoff at a commercial service airport, including constructing or reconstructing paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, paved access for deicing vehicles and aircraft, but not including acquiring aircraft deicing fluids or constructing or reconstructing storage facilities for aircraft deicing equipment or fluids.

(H) routine work to preserve and extend the useful life of runways, taxiways, and aprons at nonhub airports and airports that are not primary airports, under guidelines issued by the Administrator of the Federal Aviation Administration.

(I) constructing, reconstructing, or improving an airport, or purchasing nonrevenue generating capital equipment to be owned by an airport, for the purpose of transferring passengers, cargo, or baggage between the aeronautical and ground transportation modes on airport property.

(J) constructing an air traffic control tower or acquiring and installing air traffic control, communications, and related equipment at an air traffic control tower under the terms specified in section 47124(b)(4).

(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a)[1] and if such project will result in an airport receiving appropriate emission credits, as described in section 47139.

(L) a project for the acquisition or conversion of vehicles and ground support equipment, owned by a commercial service airport, to low-emission technology, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a)[1] and if such project will result in an airport receiving appropriate emission credits as described in section 47139.

(4) ''airport hazard'' means a structure or object of natural growth located on or near a public-use airport, or a use of land near the airport, that obstructs or otherwise is hazardous to the landing or taking off of aircraft at or from the airport.

(5) ''airport planning'' means planning as defined by regulations the Secretary prescribes and includes integrated airport system planning.

(6) ''amount made available under section 48103'' or ''amount newly made available'' means the amount authorized for grants under section 48103 as that amount may be limited in that year by a subsequent law, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).

(7) ''commercial service airport'' means a public airport in a State that the Secretary determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

(8) ''integrated airport system planning'' means developing for planning purposes information and guidance to decide the extent, kind, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports, including—

(A) identifying system needs;

(B) developing an estimate of systemwide development costs;

(C) conducting studies, surveys, and other planning actions, including those related to airport access, needed to decide which aeronautical needs should be met by a system of airports; and

(D) standards prescribed by a State, except standards for safety of approaches, for airport development at nonprimary public-use airports.

(9) ''landed weight'' means the weight of aircraft transporting only cargo in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

(10) ''large hub airport'' means a commercial service airport that has at least 1.0 percent of the passenger boardings.

(11) ''low-emission technology'' means technology for vehicles and equipment whose emis-

[1] So in original. There probably should be a second closing parenthesis.

sion performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially nonpetroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.

(12) ''medium hub airport'' means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

(13) ''nonhub airport'' means a commercial service airport that has less than 0.05 percent of the passenger boardings.

(14) ''passenger boardings''—

(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

(15) ''primary airport'' means a commercial service airport the Secretary determines to have more than 10,000 passenger boardings each year.

(16) ''project'' means a project, separate projects included in one project grant application, or all projects to be undertaken at an airport in a fiscal year, to achieve airport development or airport planning.

(17) ''project cost'' means a cost involved in carrying out a project.

(18) ''project grant'' means a grant of money the Secretary makes to a sponsor to carry out at least one project.

(19) ''public agency'' means—

(A) a State or political subdivision of a State;

(B) a tax-supported organization; or

(C) an Indian tribe or pueblo.

(20) ''public airport'' means an airport used or intended to be used for public purposes—

(A) that is under the control of a public agency; and

(B) of which the area used or intended to be used for the landing, taking off, or surface maneuvering of aircraft is publicly owned.

(21) ''public-use airport'' means—

(A) a public airport; or

(B) a privately-owned airport used or intended to be used for public purposes that is—

(i) a reliever airport; or

(ii) determined by the Secretary to have at least 2,500 passenger boardings each year and to receive scheduled passenger aircraft service.

(22) ''reliever airport'' means an airport the Secretary designates to relieve congestion at a commercial service airport and to provide more general aviation access to the overall community.

(23) ''small hub airport'' means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

(24) ''sponsor'' means—

(A) a public agency that submits to the Secretary under this subchapter an application for financial assistance; and

(B) a private owner of a public-use airport that submits to the Secretary under this subchapter an application for financial assistance for the airport.

(25) ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1248; Pub. L. 103–305, title I, § 105, Aug. 23, 1994, 108 Stat. 1572; Pub. L. 104–264, title I, § 142(b)(1), Oct. 9, 1996, 110 Stat. 3221; Pub. L. 106–181, title I, §§ 121(c), 122, 123(b), 137(b), title V, § 514(a), Apr. 5, 2000, 114 Stat. 74, 75, 85, 144; Pub. L. 107–71, title I, § 119(a)(1), (5), Nov. 19, 2001, 115 Stat. 628, 629; Pub. L. 108–7, div. I, title III, § 370(a), Feb. 20, 2003, 117 Stat. 424; Pub. L. 108–176, title I, §§ 141, 142, 159(b)(1), (d), title VIII, § 801(a), Dec. 12, 2003, 117 Stat. 2503, 2510, 2511, 2586.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47102(1)	(no source).	
47102(2)	49 App.:2202(a)(1).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(1), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 103(a), 101 Stat. 1488.
	49 App.:2202(a)(21).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(13)–(19), (21)–(23), 96 Stat. 673, 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
47102(3)	49 App.:2202(a)(2).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(2), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 103(b), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, § 9102, 104 Stat. 1388–354; Oct. 31, 1992, Pub. L. 102–581, § 112(a), (b), 106 Stat. 4880.
47102(4)	49 App.:2202(a)(3).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(3)–(5), (7), (8), (b), 96 Stat. 673, 674.
47102(5)	49 App.:2202(a)(4).	
47102(6)	49 App.:2202(b).	
47102(7)	49 App.:2202(a)(5).	
47102(8)	49 App.:2202(a)(7).	
47102(9)	49 App.:2202(a)(9).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 503(a)(9); added Dec. 30, 1987, Pub. L. 100–223, § 103(c)(2), 101 Stat. 1488.
47102(10)	49 App.:2202(a)(10).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(10), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), (d), 101 Stat. 1488; Oct. 31, 1992, Pub. L. 102–581, § 115, 106 Stat. 4881.
47102(11)	49 App.:2202(a)(12).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(12), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), (e), 101 Stat. 1488.
47102(12)	49 App.:2202(a)(13).	
47102(13)	49 App.:2202(a)(14).	
47102(14)	49 App.:2202(a)(15).	
47102(15)	49 App.:2202(a)(16).	
47102(16)	49 App.:2202(a)(8), (17).	
47102(17)	49 App.:2202(a)(18).	
47102(18)	49 App.:2202(a)(19).	
47102(19)	49 App.:2202(a)(22).	
47102(20)	49 App.:2202(a)(23).	

In this section, before clause (1), the words ''In this subchapter'' are substituted for ''As used in this chapter'' and ''Whenever in this chapter reference is made

to . . . such reference shall mean'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

Clause (1) restates the definition of ''air carrier airport'' that was contained in section 11(1) of the Airport and Airway Development Act of 1970 as in effect both on February 18, 1980, and immediately before September 3, 1982. The clause is added to this section to eliminate the cross-references to definitions in section 11 of the Airport and Airway Development Act of 1970 that are contained in the source provisions restated in sections 47106(d) and 47119(a) of the revised title. Because some of the terms used in the definition of ''air carrier airport'' were themselves defined in section 11, the definitions of those terms are incorporated in the definition added in clause (1) to the extent they differ from the definitions of those terms restated in this section. The words ''Secretary of Transportation'' and ''Secretary'' are substituted for ''Civil Aeronautics Board'' because of the transfer of authority under 49 App.:1551(b)(1)(E).

In clause (2), before subclause (A), the text of 49 App.:2202(a)(21) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In subclause (A)(iii), the words ''those areas'' are substituted for ''thereon'' for clarity.

In clause (3)(A), before subclause (i), the words ''any work involved in'' and ''or portion thereof'' are eliminated as unnecessary. The word ''reconstructing'' is omitted as being included in ''constructing''. In subclause (ii), the words ''carrying out a field investigation'' are substituted for ''field investigations incidental thereto'' for clarity.

In clause (3)(B), before subclause (i), the word ''for'' is substituted for ''by'' for clarity. In subclause (i), the words ''required by the acquisition or installation'' are substituted for ''thereby required'' for clarity. In subclause (ii), the word ''individuals'' is substituted for ''persons'' for clarity and consistency in the revised title and with other titles of the Code.

In clause (3)(C), before subclause (i), the words ''interest in land or airspace'' are substituted for ''land or of any interest therein, or of any easement through or other interest in airspace'' to eliminate unnecessary words. In subclause (ii), the words ''existing airport hazard . . . the creation of a new airport hazard'' are added for clarity and consistency in this chapter.

In clause (3)(D), the words ''any . . . work involved to'' are omitted as surplus. The word ''Secretary'' is substituted for ''Department of Transportation'' because of 49:102(b). The words ''Administrator of the'' are added because of 49:106(b).

In clause (4), the word ''near'' is substituted for ''in the vicinity of'' to eliminate unnecessary words. The words ''obstructs or otherwise is hazardous to the landing or taking off'' are substituted for ''obstructs the airspace required for the flight of aircraft in landing or taking off . . . or is otherwise hazardous to such landing or taking off'' for clarity and to eliminate unnecessary words.

In clause (6), the words ''for a fiscal year . . . for that fiscal year'' are omitted as surplus. The words ''authorized for grants'' are substituted for ''made available for obligation'' for clarity and consistency. The word ''law'' is substituted for ''Act of Congress'' for consistency in the revised title and with other titles of the Code. The words ''or limited'' are omitted as surplus.

In clause (8), before subclause (A), the words ''the initial as well as continuing'' and ''nature'' are omitted as surplus. In subclause (C), the words ''needed to decide which aeronautical needs should be met'' are substituted for ''as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met'' for clarity and to eliminate unnecessary words. The word ''particular'' is eliminated as unnecessary. In subclause (D), the word ''prescribed'' is substituted for ''the establishment . . . of'' for consistency in the revised title and with other titles of the Code.

In clause (9), the words ''scheduled and nonscheduled'' are omitted as surplus. The word ''cargo'' is substituted for ''property (including mail)'' for consistency in the revised title.

In clause (10), before subclause (A), the words ''passenger boardings'' are substituted for ''passengers enplaned'' for clarity. In subclause (A), the words ''domestic, territorial, and international'', ''in the States'', ''scheduled and nonscheduled'', and ''intrastate, interstate, and foreign'' are omitted as surplus. In subclause (B), the words ''who continue on an aircraft in'' are substituted for ''on board'' for clarity. (See Cong. Rec., pp. S15296, 15297, Oct. 28, 1987, daily ed.). The words ''that stops'' are substituted for ''which transit'' for clarity. The word ''located'' is omitted as surplus.

In clause (12), the words ''included in one project grant application'' are substituted for ''submitted together'', and the words ''or all projects to be undertaken'' are substituted for ''including the combined submission of all projects'', for clarity and consistency in this chapter.

In clause (15)(A), the words ''or any agency of a State, a municipality . . . other'' are omitted as surplus.

In clause (19)(A), the words ''either individually or jointly with one or more other public agencies'' are omitted as surplus.

In clause (20), the words ''the Commonwealth of'' and ''the Government of'' are omitted as surplus.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in par. (3)(F), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Clean Air Act, referred to in par. (3)(F), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in par. (3)(F), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

AMENDMENTS

2003—Par. (3)(B)(x). Pub. L. 108–176, § 142, inserted ''; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114'' before period at end.

Par. (3)(H). Pub. L. 108–176, § 141, inserted ''nonhub airports and'' before ''airports that are not primary airports''.

Par. (3)(J). Pub. L. 108–176, § 159(b)(1)(A), redesignated subpar. (M) as (J) and struck out former subpar. (J) which read as follows: ''in fiscal year 2002, any additional security related activity required by law or by the Secretary after September 11, 2001, and before October 1, 2002.''

Par. (3)(K), (L). Pub. L. 108–176, § 159(b)(1), added subpars. (K) and (L) and struck out former subpars. (K) and (L) which read as follows:

''(K) in fiscal year 2002 with respect to funds apportioned under section 47114 in fiscal years 2001 and 2002, any activity, including operational activities, of an airport that is not a primary airport if that airport is located within the confines of enhanced class B airspace, as defined by Notice to Airmen FDC 1/0618 issued by the Federal Aviation Administration and the activity was carried out when any restriction in the Notice is in effect.

''(L) in fiscal year 2002, payments for debt service on indebtedness incurred to carry out a project at an air-

port owned or controlled by the sponsor or at a privately owned or operated airport passenger terminal financed by indebtedness incurred by the sponsor if the Secretary determines that such payments are necessary to prevent a default on the indebtedness.''

Par. (3)(M). Pub. L. 108–176, § 159(b)(1)(A), redesignated subpar. (M) as (J).

Pub. L. 108–7 added subpar. (M).

Par. (6). Pub. L. 108–176, § 801(a)(6), added par. (6) and struck out former par. (6) which read as follows: '''amount made available under section 48103 of this title' means the amount authorized for grants under section 48103 of this title as reduced by any law enacted after September 3, 1982.''

Par. (10). Pub. L. 108–176, § 801(a)(5), added par. (10). Former par. (10) redesignated (14).

Par. (10)(A), (B). Pub. L. 108–176, § 801(a)(3), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

''(A) means revenue passenger boardings on an aircraft in service in air commerce as the Secretary determines under regulations the Secretary prescribes; and

''(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.''

Par. (11). Pub. L. 108–176, § 159(d), amended section as amended by Pub. L. 108–176, § 801, by adding par. (11).

Pub. L. 108–176, § 801(a)(4), redesignated par. (11) as (15).

Pars. (12) to (18). Pub. L. 108–176, § 801(a)(4), (5), added pars. (12) and (13) and redesignated pars. (10) to (14) as (14) to (18), respectively. Former pars. (15) to (18) redesignated (19) to (22), respectively.

Pars. (19), (20). Pub. L. 108–176, § 801(a)(4), redesignated pars. (15) and (16) as (19) and (20), respectively. Former pars. (19) and (20) redesignated (24) and (25), respectively.

Pars. (21) and (22). Pub. L. 108–176, § 801(a)(4), redesignated pars. (17) and (18) as pars. (21) and (22), respectively.

Par. (23). Pub. L. 108–176, § 801(a)(2), added par. (23).

Pars. (24), (25). Pub. L. 108–176, § 801(a)(1), redesignated pars. (19) and (20) as (24) and (25), respectively.

2001—Par. (3)(B)(x). Pub. L. 107–71, § 119(a)(5), added cl. (x).

Par. (3)(J) to (L). Pub. L. 107–71, § 119(a)(1), added subpars. (J) to (L).

2000—Par. (3)(B)(ii). Pub. L. 106–181, § 121(c)(1), substituted '', universal access systems, and emergency call boxes,'' for ''and universal access systems,'' and inserted ''and integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices'' before semicolon at end.

Par. (3)(B)(iii). Pub. L. 106–181, § 121(c)(2), inserted before semicolon at end '', including closed circuit weather surveillance equipment if the airport is located in Alaska''.

Par. (3)(B)(vii), (viii). Pub. L. 106–181, § 122, added cls. (vii) and (viii).

Par. (3)(B)(ix). Pub. L. 106–181, § 514(a), added cl. (ix).

Par. (3)(H). Pub. L. 106–181, § 123(b), added subpar. (H).

Par. (3)(I). Pub. L. 106–181, § 137(b), added subpar. (I).

1996—Par. (3)(E). Pub. L. 104–264, § 142(b)(1)(A), inserted ''or under section 40117'' before period at end.

Par. (3)(F). Pub. L. 104–264, § 142(b)(1)(B), struck out ''paid for by a grant under this subchapter and'' after ''airport, if''.

1994—Par. (3)(B)(ii). Pub. L. 103–305 inserted '', including explosive detection devices and universal access systems,'' after ''or security equipment''.

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

GUIDANCE

Pub. L. 108–176, title I, § 159(b)(2), Dec. 12, 2003, 117 Stat. 2510, provided that:

''(A) ELIGIBLE LOW-EMISSION MODIFICATIONS AND IMPROVEMENTS.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission modifications and improvements, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(K) of title 49, United States Code, as added by this subsection.

''(B) ELIGIBLE LOW-EMISSION VEHICLE TECHNOLOGY.—The Secretary, in consultation with the Administrator, shall issue guidance describing eligible low-emission vehicle technology, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(L) of title 49, United States Code, as added by this subsection.''

§ 47103. National plan of integrated airport systems

(a) GENERAL REQUIREMENTS AND CONSIDERATIONS.—The Secretary of Transportation shall maintain the plan for developing public-use airports in the United States, named ''the national plan of integrated airport systems''. The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service. Airport development included in the plan may not be limited to meeting the needs of any particular classes or categories of public-use airports. In maintaining the plan, the Secretary of Transportation shall consider the needs of each segment of civil aviation and the relationship of each airport to—

(1) the rest of the transportation system in the particular area;

(2) forecasted technological developments in aeronautics; and

(3) forecasted developments in other modes of intercity transportation.

(b) SPECIFIC REQUIREMENTS.—In maintaining the plan, the Secretary of Transportation shall—

(1) to the extent possible and as appropriate, consult with departments, agencies, and instrumentalities of the United States Government, with public agencies, and with the aviation community;

(2) consider tall structures that reduce safety or airport capacity; and

(3) make every reasonable effort to address the needs of air cargo operations, Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations, and rotary wing aircraft operations.

(c) AVAILABILITY OF DOMESTIC MILITARY AIRPORTS AND AIRPORT FACILITIES.—To the extent possible, the Secretary of Defense shall make domestic military airports and airport facilities available for civil use. In advising the Secretary of Transportation under subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities are available for civil use.

(d) PUBLICATION.—The Secretary of Transportation shall publish the status of the plan every 2 years.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1251.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47103(a)	49 App.:2203(a)(1) (2d–last sentences).	Sept. 3, 1982, Pub. L. 97–248, § 504(a)(1), 96 Stat. 675; Dec. 30, 1987, Pub. L. 100–223, § 104(a)(1)(A), (2), 101 Stat. 1489.
47103(b)	49 App.:2203(a)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 504(a)(2); added Dec. 30, 1987, Pub. L. 100–223, § 104(a)(1)(B), 101 Stat. 1489.
	49 App.:2203(c).	Sept. 3, 1982, Pub. L. 97–248, § 504(c), 96 Stat. 676.
47103(c)	49 App.:2203(d)(1).	Sept. 3, 1982, Pub. L. 97–248, § 504(d)(1), 96 Stat. 676; Dec. 30, 1987, Pub. L. 100–223, § 104(b)(2), 101 Stat. 1489.
47103(d)	49 App.:2203(a)(1) (1st sentence).	

In subsection (a), before clause (1), the words ''shall maintain'' and ''In maintaining'' are substituted for ''In reviewing and revising'' for clarity and consistency in the revised title. The word ''named'' is substituted for ''After September 3, 1982, the revised national airport system plan shall be known as'', and the words ''the national defense requirements of the Secretary of Defense'' are substituted for ''requirements in support of the national defense as determined by the Secretary of Defense'', to eliminate unnecessary words. The words ''included in the plan may not be limited to meeting the needs of any particular'' are substituted for ''identified by this plan shall not be limited to the requirements of any'' for clarity and consistency in this section. The words ''among other things'' are omitted as surplus.

In subsection (b), before clause (1), the words ''In maintaining'' are substituted for ''In reviewing and revising'' for consistency in this section. In clause (1), the words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''Federal . . . agencies'' for consistency in the revised title and with other titles of the United States Code. In clauses (2) and (3), the words ''As soon as feasible following December 30, 1987'' are omitted as obsolete. In clause (3), the word ''legitimate'' is omitted as surplus.

In subsection (c), the words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:133.

In subsection (d), the words ''Not later than two years after September 3, 1982'' are omitted as executed.

§ 47104. Project grant authority

(a) GENERAL AUTHORITY.—To maintain a safe and efficient nationwide system of public-use airports that meets the present and future needs of civil aeronautics, the Secretary of Transportation may make project grants under this subchapter from the Airport and Airway Trust Fund.

(b) INCURRING OBLIGATIONS.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title as soon as the amounts are apportioned under section 47114(c) and (d)(2) of this title.

(c) EXPIRATION OF AUTHORITY.—After September 30, 2007, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) remaining available after that date under section 47117(b) of this title; or

(2) recovered by the United States Government from grants made under this chapter if the amounts are obligated only for increases under section 47108(b)(2) and (3) of this title in the maximum amount of obligations of the Government for any other grant made under this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1252; Pub. L. 103–305, title I, § 101(b), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 103–429, § 6(63), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, § 101(b), Oct. 9, 1996, 110 Stat. 3216; Pub. L. 105–277, div. C, title I, § 110(b)(2), Oct. 21, 1998, 112 Stat. 2681–587; Pub. L. 106–6, § 2(b), Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–31, title VI, § 6002(b), May 21, 1999, 113 Stat. 113; Pub. L. 106–59, § 1(b), Sept. 29, 1999, 113 Stat. 482; Pub. L. 106–181, title I, § 101(b), Apr. 5, 2000, 114 Stat. 65; Pub. L. 108–176, title I, § 101(b), Dec. 12, 2003, 117 Stat. 2494.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47104(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2204(a) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 505(a) (1st sentence), 96 Stat. 676.
47104(b)	49 App.:2204(b)(1) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 505(b)(1), 96 Stat. 677; Nov. 5, 1990, Pub. L. 101–508, § 9104(2), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 102(b), 106 Stat. 4877.
47104(c)	49 App.:2204(b)(1) (last sentence).	

In subsection (a), the words ''project grants'' are substituted for ''grants . . . for airport development and airport planning by project grants'' in 49 App.:2204(a) to eliminate unnecessary words and because of the definitions of ''project'' and ''project grant'' in section 47102 of the revised title.

In subsection (b), the words ''and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) of this section'' are omitted as surplus.

In subsection (c), the words ''except for obligations of amounts'' are substituted for ''except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds'' to eliminate unnecessary words.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47104(c)	49 App.:2204(b)(1) (last sentence). 49App.:2204 note.	Sept. 3, 1982, Pub. L. 97–248, §505(b)(1) (last sentence), as amended May 26, 1994, Pub. L. 103–260, §109, 108 Stat. 700.

In subsection (c), the text of section 109(b) of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 700) is omitted as executed.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–176 substituted ''September 30, 2007'' for ''September 30, 2003'' in introductory provisions.

2000—Subsec. (c). Pub. L. 106–181 substituted ''September 30, 2003,'' for ''September 30, 1999,'' in introductory provisions.

1999—Subsec. (c). Pub. L. 106–59 substituted ''September 30, 1999'' for ''August 6, 1999'' in introductory provisions.

Pub. L. 106–31 substituted ''August 6, 1999'' for ''May 31, 1999'' in introductory provisions.

Pub. L. 106–6 substituted ''May'' for ''March'' in introductory provisions.

1998—Subsec. (c). Pub. L. 105–277 substituted ''March 31, 1999'' for ''September 30, 1998'' in introductory provisions.

1996—Subsec. (c). Pub. L. 104–264 substituted ''1998'' for ''1996'' in introductory provisions.

1994—Subsec. (c). Pub. L. 103–429 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''After September 30, 1996, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts remaining available after that date under section 47117(b) of this title.''

Pub. L. 103–305 substituted ''After September 30, 1996, the Secretary'' for ''After September 30, 1993, the Secretary''.

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

DESIGN-BUILD CONTRACTING

Pub. L. 106–181, title I, §139, Apr. 5, 2000, 114 Stat. 85, provided that:

''(a) PILOT PROGRAM.—The Administrator [of the Federal Aviation Administration] may establish a pilot program under which design-build contracts may be used to carry out up to 7 projects at airports in the United States with a grant awarded under section 47104 of title 49, United States Code. A sponsor of an airport may submit an application to the Administrator to carry out a project otherwise eligible for assistance under chapter 471 of such title under the pilot program.

''(b) USE OF DESIGN-BUILD CONTRACTS.—Under the pilot program, the Administrator may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if—

''(1) the Administrator approves the application using criteria established by the Administrator;

''(2) the design-build contract is in a form that is approved by the Administrator;

''(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

''(4) use of a design-build contract will be cost effective and expedite the project;

''(5) the Administrator is satisfied that there will be no conflict of interest; and

''(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least three or more bids will be submitted for each project under the selection process.

''(c) REIMBURSEMENT OF COSTS.—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under chapter 471 of title 49, United States Code, if the project were carried out after a grant agreement had been executed.

''(d) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term 'design-build contract' means an agreement that provides for both design and construction of a project by a contractor.

''(e) EXPIRATION OF AUTHORITY.—The authority of the Administrator to carry out the pilot program under this section shall expire on September 30, 2003.''

§ 47105. Project grant applications

(a) SUBMISSION AND CONSULTATION.—(1) An application for a project grant under this subchapter may be submitted to the Secretary of Transportation by—

(A) a sponsor; or

(B) a State, as the only sponsor, for an airport development project benefitting 1 or more airports in the State or for airport planning for projects for 1 or more airports in the State if—

(i) the sponsor of each airport gives written consent that the State be the applicant;

(ii) the Secretary is satisfied there is administrative merit and aeronautical benefit in the State being the sponsor; and

(iii) an acceptable agreement exists that ensures that the State will comply with appropriate grant conditions and other assurances the Secretary requires.

(2) Before deciding to undertake an airport development project at an airport under this subchapter, a sponsor shall consult with the airport users that will be affected by the project.

(3) This subsection does not authorize a public agency that is subject to the laws of a State to apply for a project grant in violation of a law of the State.

(b) CONTENTS AND FORM.—An application for a project grant under this subchapter—

(1) shall describe the project proposed to be undertaken;

(2) may propose a project only for a public-use airport included in the current national plan of integrated airport systems;

(3) may propose airport development only if the development complies with standards the

Secretary prescribes or approves, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches; and

(4) shall be in the form and contain other information the Secretary prescribes.

(c) STATE STANDARDS FOR AIRPORT DEVELOPMENT.—The Secretary may approve standards (except standards for safety of approaches) that a State prescribes for airport development at nonprimary public-use airports in the State. On approval under this subsection, a State's standards apply to the nonprimary public-use airports in the State instead of the comparable standards prescribed by the Secretary under subsection (b)(3) of this section. The Secretary, or the State with the approval of the Secretary, may revise standards approved under this subsection.

(d) CERTIFICATION OF COMPLIANCE.—The Secretary may require a sponsor to certify that the sponsor will comply with this subchapter in carrying out the project. The Secretary may rescind the acceptance of a certification at any time. This subsection does not affect an obligation or responsibility of the Secretary under another law of the United States.

(e) PREVENTIVE MAINTENANCE.—After January 1, 1995, the Secretary may approve an application under this subchapter for the replacement or reconstruction of pavement at an airport only if the sponsor has provided such assurances or certifications as the Secretary may determine appropriate that such airport has implemented an effective airport pavement maintenance-management program. The Secretary may require such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

(f) NOTIFICATION.—The sponsor of an airport for which an amount is apportioned under section 47114(c) of this title shall notify the Secretary of the fiscal year in which the sponsor intends to submit a project grant application for the apportioned amount. The notification shall be given by the time and contain the information the Secretary prescribes.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1253; Pub. L. 103–305, title I, §§ 106, 107(a), Aug. 23, 1994, 108 Stat. 1572.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47105(a)(1)(A).	49 App.:2208(a)(1) (1st sentence related to authority to submit applications).	Sept. 3, 1982, Pub. L. 97–248, §§ 509(a)(1), (c), (d), 511(c), 96 Stat. 682, 685, 688.
47105(a)(1)(B).	49 App.:2208(a)(3).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 509(a)(3); added Dec. 30, 1987, Pub. L. 100–223, § 108, 101 Stat. 1498.
47105(a)(2) ..	49 App.:2210(c).	
47105(a)(3) ..	49 App.:2208(a)(1) (3d sentence).	
47105(b)	49 App.:2208(a)(1) (1st sentence related to form and contents, 2d, last sentences).	
47105(c)	49 App.:2208(c).	
47105(d)	49 App.:2208(d).	
47105(e)	49 App.:2208(e).	Sept. 3, 1982, Pub. L. 97–248, § 509(e), 96 Stat. 685; Dec. 30, 1987, Pub. L. 100–223, § 106(b)(3)(B), 101 Stat. 1498.

In subsection (a)(1), before clause (A), the words ''Subject to the provisions of this subsection'' are omitted as surplus. The words ''for one or more projects'' are omitted as surplus because of the definition of ''project grant'' in section 47102 of the revised title. Clause (A) is substituted for ''(A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors, acting jointly'' because of the definition of ''sponsor'' in section 47102 of the revised title.

In subsection (a)(2), the word ''Before'' is substituted for ''In'' as the more appropriate word. The words ''at an airport'' are substituted for ''at which such project is proposed'' to eliminate unnecessary words. The words ''airport users that will be affected by the project'' are substituted for ''affected parties'' for clarity.

Subsection (a)(3) is substituted for 49 App.:2208(a)(1) (3d sentence) to eliminate unnecessary words.

In subsection (b)(1), the words ''shall describe'' are substituted for ''setting forth'' for clarity.

In subsection (b)(2), the word ''project'' is substituted for ''airport development or airport planning'' because of the definition of ''project'' in section 47102 of the revised title. The words ''prepared pursuant to section 2203 of the Appendix'' are eliminated as unnecessary.

In subsection (c), the words ''from time to time'' are eliminated as unnecessary.

In subsection (d), the words ''in connection with any project'' are omitted as surplus. The words ''that the sponsor will comply with this subchapter in carrying out the project'' are substituted for ''that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this chapter in connection with such project'' to eliminate unnecessary words. The words ''or discharge'' are omitted as included in ''affect''. The words ''including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 303 of title 49, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b) [42 U.S.C. 2000d et seq.], title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)'' are omitted as included in ''another law of the United States''.

In subsection (e), the words ''of an airport for which'' are substituted for ''to which'' for clarity.

AMENDMENTS

1994—Subsec. (a)(1)(B). Pub. L. 103–305, § 106, in introductory provisions, substituted ''1 or more airports'' for ''at least 2 airports'' in two places and struck out ''similar'' before ''projects''.

Subsecs. (e), (f). Pub. L. 103–305, § 107(a), added subsec. (e) and redesignated former subsec. (e) as (f).

§ 47106. Project grant application approval conditioned on satisfaction of project requirements

(a) PROJECT GRANT APPLICATION APPROVAL.—The Secretary of Transportation may approve an application under this subchapter for a project grant only if the Secretary is satisfied that—

(1) the project is consistent with plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport;

(2) the project will contribute to carrying out this subchapter;

(3) enough money is available to pay the project costs that will not be paid by the United States Government under this subchapter;

(4) the project will be completed without unreasonable delay; and

(5) the sponsor has authority to carry out the project as proposed.

(b) AIRPORT DEVELOPMENT PROJECT GRANT APPLICATION APPROVAL.—The Secretary may approve an application under this subchapter for an airport development project grant for an airport only if the Secretary is satisfied that—

(1) the sponsor, a public agency, or the Government holds good title to the areas of the airport used or intended to be used for the landing, taking off, or surface maneuvering of aircraft, or that good title will be acquired;

(2) the interests of the community in or near which the project may be located have been given fair consideration; and

(3) the application provides touchdown zone and centerline runway lighting, high intensity runway lighting, or land necessary for installing approach light systems that the Secretary, considering the category of the airport and the kind and volume of traffic using it, decides is necessary for safe and efficient use of the airport by aircraft.

(c) ENVIRONMENTAL REQUIREMENTS.—(1) The Secretary may approve an application under this subchapter for an airport development project involving the location of an airport or runway or a major runway extension—

(A) only if the sponsor certifies to the Secretary that—

(i) an opportunity for a public hearing was given to consider the economic, social, and environmental effects of the location and the location's consistency with the objectives of any planning that the community has carried out;

(ii) the airport management board has voting representation from the communities in which the project is located or has advised the communities that they have the right to petition the Secretary about a proposed project; and

(iii) with respect to an airport development project involving the location of an airport, runway, or major runway extension at a medium or large hub airport, the airport sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted; and

(B) if the application is found to have a significant adverse effect on natural resources, including fish and wildlife, natural, scenic, and recreation assets, water and air quality, or another factor affecting the environment, only after finding that no possible and prudent alternative to the project exists and that every reasonable step has been taken to minimize the adverse effect.

(2) The Secretary may approve an application under this subchapter for an airport development project that does not involve the location of an airport or runway, or a major runway extension, at an existing airport without requiring an environmental impact statement related to noise for the project if—

(A) completing the project would allow operations at the airport involving aircraft complying with the noise standards prescribed for ''stage 3'' aircraft in section 36.1 of title 14, Code of Federal Regulations, to replace existing operations involving aircraft that do not comply with those standards; and

(B) the project meets the other requirements under this subchapter.

(3) At the Secretary's request, the sponsor shall give the Secretary a copy of the transcript of any hearing held under paragraph (1)(A) of this subsection.

(4) The Secretary may make a finding under paragraph (1)(B) of this subsection only after completely reviewing the matter. The review and finding must be a matter of public record.

(d) WITHHOLDING APPROVAL.—(1) The Secretary may withhold approval of an application under this subchapter for amounts apportioned under section 47114(c) and (e) of this title for violating an assurance or requirement of this subchapter only if—

(A) the Secretary provides the sponsor an opportunity for a hearing; and

(B) not later than 180 days after the later of the date of the application or the date the Secretary discovers the noncompliance, the Secretary finds that a violation has occurred.

(2) The 180-day period may be extended by—

(A) agreement between the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding approval may obtain review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The action must be brought not later than 60 days after the order is served on the petitioner.

(e) REPORTS RELATING TO CONSTRUCTION OF CERTAIN NEW HUB AIRPORTS.—At least 90 days prior to the approval under this subchapter of a project grant application for construction of a new hub airport that is expected to have 0.25 percent or more of the total annual enplanements in the United States, the Secretary shall submit to Congress a report analyzing the anticipated impact of such proposed new airport on—

(1) the fees charged to air carriers (including landing fees), and other costs that will be incurred by air carriers, for using the proposed airport;

(2) air transportation that will be provided in the geographic region of the proposed airport; and

(3) the availability and cost of providing air transportation to rural areas in such geographic region.

(f) COMPETITION PLANS.—

(1) PROHIBITION.—Beginning in fiscal year 2001, no passenger facility fee may be approved for a covered airport under section 40117 and

no grant may be made under this subchapter for a covered airport unless the airport has submitted to the Secretary a written competition plan in accordance with this subsection.

(2) CONTENTS.—A competition plan under this subsection shall include information on the availability of airport gates and related facilities, leasing and sub-leasing arrangements, gate-use requirements, patterns of air service, gate-assignment policy, financial constraints, airport controls over air- and ground-side capacity, whether the airport intends to build or acquire gates that would be used as common facilities, and airfare levels (as compiled by the Department of Transportation) compared to other large airports.

(3) SPECIAL RULE FOR FISCAL YEAR 2002.—This subsection does not apply to any passenger facility fee approved, or grant made, in fiscal year 2002 if the fee or grant is to be used to improve security at a covered airport.

(4) COVERED AIRPORT DEFINED.—In this subsection, the term ''covered airport'' means a commercial service airport—

(A) that has more than .25 percent of the total number of passenger boardings each year at all such airports; and

(B) at which one or two air carriers control more than 50 percent of the passenger boardings.

(g) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—The Secretary shall consult with the Secretary of Homeland Security before approving an application under this subchapter for an airport development project grant for activities described in section 47102(3)(B)(ii) only as they relate to security equipment or section 47102(3)(B)(x) only as they relate to installation of bulk explosive detection system.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1254; Pub. L. 103–305, title I, §§ 108, 109, Aug. 23, 1994, 108 Stat. 1573; Pub. L. 106–181, title I, § 155(b), Apr. 5, 2000, 114 Stat. 88; Pub. L. 107–71, title I, § 123(a), Nov. 19, 2001, 115 Stat. 630; Pub. L. 107–296, title IV, § 426(b), Nov. 25, 2002, 116 Stat. 2187; Pub. L. 108–176, title I, § 187, title III, § 305, Dec. 12, 2003, 117 Stat. 2518, 2539.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47106(a)	49 App.:2208(b)(1)(A)–(D).	Sept. 3, 1982, Pub. L. 97–248, §§ 503(a)(8), 509(b)(1)(A)–(D), (2)–(4), (5) (last sentence words after 11th comma), (6)(B)–(8), 96 Stat. 673, 683, 684.
47106(b)	49 App.:2202(a)(8). 49 App.:2208(b)(2)–(4).	
47106(c)(1)(A).	49 App.:2208(b)(6)(A).	Sept. 3, 1982, Pub. L. 97–248, § 509(b)(6)(A), 96 Stat. 684; Oct. 31, 1992, Pub. L. 102–581, § 113(b), 106 Stat. 4881.
47106(c)(1)(B).	49 App.:2208(b)(7)(A) (1st, 2d sentences).	
47106(c)(1)(C).	49 App.:2208(b)(5) (last sentence words between 11th and 12th commas and after last comma).	
47106(c)(2) ..	49 App.:2208(b)(8).	
47106(c)(3) ..	49 App.:2208(b)(6)(B).	
47106(c)(4) ..	49 App.:2208(b)(7)(A) (last sentence), (B).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47106(c)(5) ..	49 App.:2208(b)(5) (last sentence words between 12th and last commas).	
47106(d)	49 App.:1731.	May 21, 1970, Pub. L. 91–258, 84 Stat. 219, § 31; added Feb. 18, 1980, Pub. L. 96–193, § 206, 94 Stat. 55; Sept. 3, 1982, Pub. L. 97–248, § 524(e), 96 Stat. 697.
47106(e)	49 App.:2218(b) (related to application).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 519(b) (related to application); added Dec. 30, 1987, Pub. L. 100–223, § 112(2), 101 Stat. 1504.

In subsection (a)(1), the word ''reasonably'' is omitted as surplus.

In subsection (a)(2), the words ''carrying out'' are substituted for ''accomplishment of the purposes of'' for consistency in the revised title.

In subsection (a)(3), the words ''that portion of'' are omitted as surplus.

In subsection (a)(5), the words ''which submitted the project grant application'' and ''legal'' are omitted as surplus.

In subsection (b), before clause (1), the words ''for an airport'' are added for clarity. In clause (1), the words ''or an agency thereof'' are omitted surplus. In clause (3), the words ''that the Secretary . . . decides is necessary'' are substituted for ''when it is determined by the Secretary that any such item is required'' to eliminate unnecessary words.

In subsection (c)(1)(B), before subclause (i), the words ''chief executive officer'' are substituted for ''Governor'' because this chapter applies to the District of Columbia which does not have a Governor. The words ''except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if'' are substituted for ''In any case where . . . certification shall be obtained from such Administrator'' for clarity. Subclause (i) is substituted for ''such standards have not been approved'' for clarity.

In subsection (c)(2), before clause (A), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''that does not involve the location of an airport or runway, or a major runway extension'' are substituted for ''(other than an airport development project in which paragraph (7)(A) applies)'' for clarity. The words ''the preparation of'' are omitted as surplus. In clause (B), the words ''statutory and administrative'' are omitted as surplus.

In subsection (c)(4)(A), the words ''to the Secretary'' are added for clarity.

In subsection (c)(5), the words ''full and'' are omitted as surplus. The words ''in writing'' are omitted as surplus because of the requirement that the decision be a matter of public record.

In subsection (d)(1), the words ''(as defined by section 1711(8) of this Appendix, as in effect on February 18, 1980)'' are omitted because of the definition of ''air carrier airport'' in section 47102 of the revised title.

In subsection (d)(2), the words ''Notwithstanding any other provision of the Airport and Airway Improvement Act of 1982 [49 App. U.S.C. 2201 et seq.]'' and ''single'' are omitted as surplus.

In subsection (e)(1) and (2), the word ''sponsor'' is substituted for ''applicant'' for consistency.

In subsection (e)(1), before clause (A), the words ''under this subchapter'' are added for consistency in this section. The word ''other'' is omitted as surplus.

In subsection (e)(2)(A), the word ''mutual'' is omitted as surplus.

In subsection (e)(3), the words ''adversely affected'' are substituted for ''aggrieved'' for consistency in the revised title and with other titles of the United States

Code. The words ''the date on which'' are omitted as surplus.

AMENDMENTS

2003—Subsec. (c)(1)(A)(iii). Pub. L. 108–176, § 305(1), inserted ''and'' after semicolon at end.

Pub. L. 108–176, § 187, added cl. (iii).

Subsec. (c)(1)(B), (C). Pub. L. 108–176, § 305(2), (3), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''only if the chief executive officer of the State in which the project will be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards, except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if—

''(i) the State has not approved any applicable State or local standards; and

''(ii) the Administrator has prescribed applicable standards; and''.

Subsec. (c)(2)(A). Pub. L. 108–176, § 305(4), substituted ''stage 3'' for ''stage 2''.

Subsec. (c)(4), (5). Pub. L. 108–176, § 305(5)–(7), redesignated par. (5) as (4), substituted ''paragraph (1)(B)'' for ''paragraph (1)(C)'', and struck out former par. (4) which read as follows:

''(4)(A) Notice of certification or of refusal to certify under paragraph (1)(B) of this subsection shall be provided to the Secretary not later than 60 days after the Secretary receives the application.

''(B) The Secretary shall condition approval of the application on compliance with the applicable standards during construction and operation.''

2002—Subsec. (g). Pub. L. 107–296 added subsec. (g).

2001—Subsec. (f)(3), (4). Pub. L. 107–71, which directed the amendment of section 47106(f) by adding par. (3) and redesignating former par. (3) as (4), without specifying the Code title to be amended, was executed by making the amendments to this section, to reflect the probable intent of Congress.

2000—Subsec. (f). Pub. L. 106–181 added subsec. (f).

1994—Subsecs. (d), (e). Pub. L. 103–305 added subsec. (e), redesignated former subsec. (e) as (d), and struck out former subsec. (d) which read as follows:

''(d) GENERAL AVIATION AIRPORT PROJECT GRANT APPLICATION APPROVAL.—(1) In this subsection, 'general aviation airport' means a public airport that is not an air carrier airport.

''(2) The Secretary may approve an application under this subchapter for an airport development project included in a project grant application involving the construction or extension of a runway at a general aviation airport located on both sides of a boundary line separating 2 counties within a State only if, before the application is submitted to the Secretary, the project is approved by the governing body of each village incorporated under the laws of the State and located entirely within 5 miles of the nearest boundary of the airport.''

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.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

ENVIRONMENTAL REVIEW OF AIRPORT IMPROVEMENT PROJECTS

Pub. L. 106–181, title III, § 310, Apr. 5, 2000, 114 Stat. 128, provided that:

''(a) STUDY.—The Secretary [of Transportation] shall conduct a study of Federal environmental requirements related to the planning and approval of airport improvement projects.

''(b) CONTENTS.—In conducting the study, the Secretary, at a minimum, shall assess—

''(1) the current level of coordination among Federal and State agencies in conducting environmental reviews in the planning and approval of airport improvement projects;

''(2) the role of public involvement in the planning and approval of airport improvement projects;

''(3) the staffing and other resources associated with conducting such environmental reviews; and

''(4) the time line for conducting such environmental reviews.

''(c) CONSULTATION.—The Secretary shall conduct the study in consultation with the Administrator [of the Federal Aviation Administration], the heads of other appropriate Federal departments and agencies, airport sponsors, the heads of State aviation agencies, representatives of the design and construction industry, representatives of employee organizations, and representatives of public interest groups.

''(d) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study, together with recommendations for streamlining, if appropriate, the environmental review process in the planning and approval of airport improvement projects.''

GRANTS FOR ENGINEERED MATERIALS ARRESTING SYSTEMS

Pub. L. 106–181, title V, § 514(c), Apr. 5, 2000, 114 Stat. 144, provided that: ''In making grants under section 47104 of title 49, United States Code, for engineered materials arresting systems, the Secretary [of Transportation] shall require the sponsor to demonstrate that the effects of jet blasts have been adequately considered.''

GRANTS FOR RUNWAY REHABILITATION

Pub. L. 106–181, title V, § 514(d), Apr. 5, 2000, 114 Stat. 144, provided that: ''In any case in which an airport's runways are constrained by physical conditions, the Secretary [of Transportation] shall consider alternative means for ensuring runway safety (other than a safety overrun area) when prescribing conditions for grants for runway rehabilitation.''

COMPLIANCE WITH REQUIREMENTS

Pub. L. 106–181, title VII, § 737, Apr. 5, 2000, 114 Stat. 172, provided that: ''Notwithstanding any other provision of law, in order to avoid unnecessary duplication of expense and effort, the Secretary [of Transportation] may authorize the use, in whole or in part, of a completed environmental assessment or environmental impact study for new construction projects on the air operations area of an airport, if the completed assessment or study was for a project at the airport that is substantially similar in nature to the new project. Any such authorized use shall meet all requirements of Federal law for the completion of such an assessment or study.''

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) GENERAL WRITTEN ASSURANCES.—The Secretary of Transportation may approve a project

grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) the airport will be available for public use on reasonable conditions and without unjust discrimination;

(2) air carriers making similar use of the airport will be subject to substantially comparable charges—

(A) for facilities directly and substantially related to providing air transportation; and

(B) regulations and conditions, except for differences based on reasonable classifications, such as between—

(i) tenants and nontenants; and

(ii) signatory and nonsignatory carriers;

(3) the airport operator will not withhold unreasonably the classification or status of tenant or signatory from an air carrier that assumes obligations substantially similar to those already imposed on air carriers of that classification or status;

(4) a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport, with a right given to only one fixed-base operator to provide services at an airport deemed not to be an exclusive right if—

(A) the right would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide the services; and

(B) allowing more than one fixed-base operator to provide the services would require reducing the space leased under an existing agreement between the one fixed-base operator and the airport owner or operator;

(5) fixed-base operators similarly using the airport will be subject to the same charges;

(6) an air carrier using the airport may service itself or use any fixed-base operator allowed by the airport operator to service any carrier at the airport;

(7) the airport and facilities on or connected with the airport will be operated and maintained suitably, with consideration given to climatic and flood conditions;

(8) a proposal to close the airport temporarily for a nonaeronautical purpose must first be approved by the Secretary;

(9) appropriate action will be taken to ensure that terminal airspace required to protect instrument and visual operations to the airport (including operations at established minimum flight altitudes) will be cleared and protected by mitigating existing, and preventing future, airport hazards;

(10) appropriate action, including the adoption of zoning laws, has been or will be taken to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations;

(11) each of the airport's facilities developed with financial assistance from the United States Government and each of the airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by Government aircraft in common with other aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facility used;

(12) the airport owner or operator will provide, without charge to the Government, property interests of the sponsor in land or water areas or buildings that the Secretary decides are desirable for, and that will be used for, constructing at Government expense, facilities for carrying out activities related to air traffic control or navigation;

(13) the airport owner or operator will maintain a schedule of charges for use of facilities and services at the airport—

(A) that will make the airport as self-sustaining as possible under the circumstances existing at the airport, including volume of traffic and economy of collection; and

(B) without including in the rate base used for the charges the Government's share of costs for any project for which a grant is made under this subchapter or was made under the Federal Airport Act or the Airport and Airway Development Act of 1970;

(14) the project accounts and records will be kept using a standard system of accounting that the Secretary, after consulting with appropriate public agencies, prescribes;

(15) the airport owner or operator will submit any annual or special airport financial and operations reports to the Secretary that the Secretary reasonably requests and make such reports available to the public;

(16) the airport owner or operator will maintain a current layout plan of the airport that meets the following requirements:

(A) the plan will be in a form the Secretary prescribes;

(B) the Secretary will approve the plan and any revision or modification before the plan, revision, or modification takes effect;

(C) the owner or operator will not make or allow any alteration in the airport or any of its facilities if the alteration does not comply with the plan the Secretary approves, and the Secretary is of the opinion that the alteration may affect adversely the safety, utility, or efficiency of the airport; and

(D) when an alteration in the airport or its facility is made that does not conform to the approved plan and that the Secretary decides adversely affects the safety, utility, or efficiency of any property on or off the airport that is owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will—

(i) eliminate the adverse effect in a way the Secretary approves; or

(ii) bear all cost of relocating the property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made;

(17) each contract and subcontract for program management, construction management, planning studies, feasibility studies, architec-

tural services, preliminary engineering, design, engineering, surveying, mapping, and related services will be awarded in the same way that a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement prescribed for or by the sponsor;

(18) the airport and each airport record will be available for inspection by the Secretary on reasonable request, and a report of the airport budget will be available to the public at reasonable times and places;

(19) the airport owner or operator will submit to the Secretary and make available to the public an annual report listing in detail—

(A) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

(B) all services and property provided to other units of government and the amount of compensation received for provision of each such service and property;

(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, but the sponsor does not have any obligation under this paragraph, or because of it, to fund special facilities for intercity bus service or for other modes of transportation; and

(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

(b) WRITTEN ASSURANCES ON USE OF REVENUE.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(c) WRITTEN ASSURANCES ON ACQUIRING LAND.—(1) In this subsection, land is needed for an airport purpose (except a noise compatibility purpose) if—

(A)(i) the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land; and

(ii) revenue from interim uses of the land contributes to the financial self-sufficiency of the airport; and

(B) for land purchased with a grant the owner or operator received not later than December 30, 1987, the Secretary of Transportation or the department, agency, or instrumentality of the Government that made the grant was notified by the owner or operator of the use of the land and did not object to the use and the land is still being used for that purpose.

(2) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received or will receive a grant for acquiring land and—

(A) if the land was or will be acquired for a noise compatibility purpose—

(i) the owner or operator will dispose of the land at fair market value at the earliest practicable time after the land no longer is needed for a noise compatibility purpose;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program; or

(B) if the land was or will be acquired for an airport purpose (except a noise compatibility purpose)—

(i) the owner or operator, when the land no longer is needed for an airport purpose, will dispose of the land at fair market value or make available to the Secretary an amount equal to the Government's proportional share of the fair market value;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the

Government's share of the cost of acquiring the land will be reinvested, on application to the Secretary, in another eligible airport development project the Secretary approves under this subchapter or paid to the Secretary for deposit in the Fund if another eligible project does not exist.

(3) Proceeds referred to in paragraph (2)(A)(iii) and (B)(iii) of this subsection and deposited in the Airport and Airway Trust Fund are available as provided in subsection (f) of this section.

(d) ASSURANCES OF CONTINUATION AS PUBLIC-USE AIRPORT.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a privately owned public-use airport only if the Secretary receives appropriate assurances that the airport will continue to function as a public-use airport during the economic life (that must be at least 10 years) of any facility at the airport that was developed with Government financial assistance under this subchapter.

(e) WRITTEN ASSURANCES OF OPPORTUNITIES FOR SMALL BUSINESS CONCERNS.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that the airport owner or operator will take necessary action to ensure, to the maximum extent practicable, that at least 10 percent of all businesses at the airport selling consumer products or providing consumer services to the public are small business concerns (as defined by regulations of the Secretary) owned and controlled by a socially and economically disadvantaged individual (as defined in section 47113(a) of this title) or qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act).

(2) An airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including any business operated through a management contract or subcontract. The dollar amount of a management contract or subcontract with a disadvantaged business enterprise shall be added to the total participation by disadvantaged business enterprises in airport concessions and to the base from which the airport's percentage goal is calculated. The dollar amount of a management contract or subcontract with a non-disadvantaged business enterprise and the gross revenue of business activities to which the management contract or subcontract pertains may not be added to this base.

(3) Except as provided in paragraph (4) of this subsection, an airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including the purchase from disadvantaged business enterprises of goods and services used in businesses conducted at the airport, but the owner or operator and the businesses conducted at the airport shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises.

(4)(A) In complying with paragraph (1) of this subsection, an airport owner or operator shall include the revenues of car rental firms at the airport in the base from which the percentage goal in paragraph (1) is calculated.

(B) An airport owner or operator may require a car rental firm to meet a requirement under paragraph (1) of this subsection by purchasing or leasing goods or services from a disadvantaged business enterprise. If an owner or operator requires such a purchase or lease, a car rental firm shall be permitted to meet the requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual or as a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act).

(C) This subsection does not require a car rental firm to change its corporate structure to provide for direct ownership arrangements to meet the requirements of this subsection.

(5) This subsection does not preempt—

(A) a State or local law, regulation, or policy enacted by the governing body of an airport owner or operator; or

(B) the authority of a State or local government or airport owner or operator to adopt or enforce a law, regulation, or policy related to disadvantaged business enterprises.

(6) An airport owner or operator may provide opportunities for a small business concern owned and controlled by a socially and economically disadvantaged individual or a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act) to participate through direct contractual agreement with that concern.

(7) An air carrier that provides passenger or property-carrying services or another business that conducts aeronautical activities at an airport may not be included in the percentage goal of paragraph (1) of this subsection for participation of small business concerns at the airport.

(8) Not later than April 29, 1993, the Secretary of Transportation shall prescribe regulations to carry out this subsection.

(f) AVAILABILITY OF AMOUNTS.—An amount deposited in the Airport and Airway Trust Fund under—

(1) subsection (c)(2)(A)(iii) of this section is available to the Secretary of Transportation to make a grant for airport development or airport planning under section 47104 of this title;

(2) subsection (c)(2)(B)(iii) of this section is available to the Secretary—

(A) to make a grant for a purpose described in section 47115(b) of this title; and

(B) for use under section 47114(d)(2) of this title at another airport in the State in which the land was disposed of under subsection (c)(2)(B)(ii) of this section; and

(3) subsection (c)(2)(B)(iii) of this section is in addition to an amount made available to the Secretary under section 48103 of this title and not subject to apportionment under section 47114 of this title.

(g) ENSURING COMPLIANCE.—(1) To ensure compliance with this section, the Secretary of Transportation—

(A) shall prescribe requirements for sponsors that the Secretary considers necessary; and

(B) may make a contract with a public agency.

(2) The Secretary of Transportation may approve an application for a project grant only if the Secretary is satisfied that the requirements prescribed under paragraph (1)(A) of this subsection have been or will be met.

(h) MODIFYING ASSURANCES AND REQUIRING COMPLIANCE WITH ADDITIONAL ASSURANCES.—

(1) IN GENERAL.—Subject to paragraph (2), before modifying an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

(A) publish notice of the proposed modification in the Federal Register; and

(B) provide an opportunity for comment on the proposal.

(2) PUBLIC NOTICE BEFORE WAIVER OF AERONAUTICAL LAND-USE ASSURANCE.—Before modifying an assurance under subsection (c)(2)(B) that requires any property to be used for an aeronautical purpose, the Secretary must provide notice to the public not less than 30 days before making such modification.

(i) RELIEF FROM OBLIGATION TO PROVIDE FREE SPACE.—When a sponsor provides a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility at Government expense, the Secretary may relieve the sponsor from an obligation in a contract made under this chapter, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space to the Government in an airport building, to the extent the Secretary finds that the free space no longer is needed to carry out activities related to air traffic control or navigation.

(j) USE OF REVENUE IN HAWAII.—(1) In this subsection—

(A) ''duty-free merchandise'' and ''duty-free sales enterprise'' have the same meanings given those terms in section 555(b)(8) of the Tariff Act of 1930 (19 U.S.C. 1555(b)(8)).

(B) ''highway'' and ''Federal-aid system'' have the same meanings given those terms in section 101(a) of title 23.

(2) Notwithstanding subsection (b)(1) of this section, Hawaii may use, for a project for construction or reconstruction of a highway on a Federal-aid system that is not more than 10 miles by road from an airport and that will facilitate access to the airport, revenue from the sales at off-airport locations in Hawaii of duty-free merchandise under a contract between Hawaii and a duty-free sales enterprise. However, the revenue resulting during a Hawaiian fiscal year may be used only if the amount of the revenue, plus amounts Hawaii receives in the fiscal year from all other sources for costs Hawaii incurs for operating all airports it operates and for debt service related to capital projects for the airports (including interest and amortization of principal costs), is more than 150 percent of the projected costs for the fiscal year.

(3)(A) Revenue from sales referred to in paragraph (2) of this subsection in a Hawaiian fiscal year that Hawaii may use may not be more than the amount that is greater than 150 percent as determined under paragraph (2).

(B) The maximum amount of revenue Hawaii may use under paragraph (2) of this subsection is $250,000,000.

(4) If a fee imposed or collected for rent, landing, or service from an aircraft operator by an airport operated by Hawaii is increased during the period from May 4, 1990, through December 31, 1994, by more than the percentage change in the Consumer Price Index of All Urban Consumers for Honolulu, Hawaii, that the Secretary of Labor publishes during that period and if revenue derived from the fee increases because the fee increased, the amount under paragraph (3)(B) of this subsection shall be reduced by the amount of the projected revenue increase in the period less the part of the increase attributable to changes in the Index in the period.

(5) Hawaii shall determine costs, revenue, and projected revenue increases referred to in this subsection and shall submit the determinations to the Secretary of Transportation. A determination is approved unless the Secretary disapproves it not later than 30 days after it is submitted.

(6) Hawaii is not eligible for a grant under section 47115 of this title in a fiscal year in which Hawaii uses under paragraph (2) of this subsection revenue from sales referred to in paragraph (2). Hawaii shall repay amounts it receives in a fiscal year under a grant it is not eligible to receive because of this paragraph to the Secretary of Transportation for deposit in the discretionary fund established under section 47115.

(7)(A) This subsection applies only to revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, and to amounts in the Airport Revenue Fund of Hawaii that are attributable to revenue before May 4, 1990, on sales referred to in paragraph (2).

(B) Revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, may be used under paragraph (2) in any Hawaiian fiscal year, including a Hawaiian fiscal year beginning after December 31, 1994.

(k) ANNUAL SUMMARIES OF FINANCIAL REPORTS.—The Secretary shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual summary of the reports submitted to the Secretary under subsection (a)(19) of this section and under section 111(b) of the Federal Aviation Administration Authorization Act of 1994.

(*l*) POLICIES AND PROCEDURES TO ENSURE ENFORCEMENT AGAINST ILLEGAL DIVERSION OF AIRPORT REVENUE.—

(1) IN GENERAL.—Not later than 90 days after August 23, 1994, the Secretary of Transportation shall establish policies and procedures that will assure the prompt and effective enforcement of subsections (a)(13) and (b) of this section and grant assurances made under such subsections. Such policies and procedures shall recognize the exemption provision in

subsection (b)(2) of this section and shall respond to the information contained in the reports of the Inspector General of the Department of Transportation on airport revenue diversion and such other relevant information as the Secretary may by law consider.

(2) REVENUE DIVERSION.—Policies and procedures to be established pursuant to paragraph (1) of this subsection shall prohibit, at a minimum, the diversion of airport revenues (except as authorized under subsection (b) of this section) through—

(A) direct payments or indirect payments, other than payments reflecting the value of services and facilities provided to the airport;

(B) use of airport revenues for general economic development, marketing, and promotional activities unrelated to airports or airport systems;

(C) payments in lieu of taxes or other assessments that exceed the value of services provided; or

(D) payments to compensate nonsponsoring governmental bodies for lost tax revenues exceeding stated tax rates.

(3) EFFORTS TO BE SELF-SUSTAINING.—With respect to subsection (a)(13) of this section, policies and procedures to be established pursuant to paragraph (1) of this subsection shall take into account, at a minimum, whether owners and operators of airports, when entering into new or revised agreements or otherwise establishing rates, charges, and fees, have undertaken reasonable efforts to make their particular airports as self-sustaining as possible under the circumstances existing at such airports.

(4) ADMINISTRATIVE SAFEGUARDS.—Policies and procedures to be established pursuant to paragraph (1) shall mandate internal controls, auditing requirements, and increased levels of Department of Transportation personnel sufficient to respond fully and promptly to complaints received regarding possible violations of subsections (a)(13) and (b) of this section and grant assurances made under such subsections and to alert the Secretary to such possible violations.

(5) STATUTE OF LIMITATIONS.—In addition to the statute of limitations specified in subsection (n)(7), with respect to project grants made under this chapter—

(A) any request by a sponsor or any other governmental entity to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

(B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (n).

(m) AUDIT CERTIFICATION.—

(1) IN GENERAL.—The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall include a provision in the compliance supplement provisions to require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505 of title 31, a review concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial assistance) and the sponsors, owners, or operators (or other recipients) involved.

(2) CONTENT OF REVIEW.—A review conducted under paragraph (1) shall provide reasonable assurances that funds paid or transferred to sponsors are paid or transferred in a manner consistent with the applicable requirements of this chapter and any other applicable provision of law (including regulations promulgated by the Secretary or the Administrator).

(n) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—

(1) IN GENERAL.—Not later than 180 days after the issuance of an audit or any other report that identifies an illegal diversion of airport revenues (as determined under subsections (b) and (*l*) and section 47133), the Secretary, acting through the Administrator, shall—

(A) review the audit or report;

(B) perform appropriate factfinding; and

(C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

(2) NOTIFICATION.—Upon making such a finding, the Secretary, acting through the Administrator, shall provide written notification to the sponsor and the airport of—

(A) the finding; and

(B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

(3) ADMINISTRATIVE ACTION.—The Secretary may withhold any amount from funds that would otherwise be made available to the sponsor, including funds that would otherwise be made available to a State, municipality, or political subdivision thereof (including any multimodal transportation agency or transit authority of which the sponsor is a member entity) as part of an apportionment or grant made available pursuant to this title, if the sponsor—

(A) receives notification that the sponsor is required to reimburse an airport; and

(B) has had an opportunity to reimburse the airport, but has failed to do so.

(4) CIVIL ACTION.—If a sponsor fails to pay an amount specified under paragraph (3) during the 180-day period beginning on the date of notification and the Secretary is unable to withhold a sufficient amount under paragraph (3), the Secretary, acting through the Administrator, may initiate a civil action under which the sponsor shall be liable for civil penalty in an amount equal to the illegal diversion in question plus interest (as determined under subsection (*o*)).

(5) DISPOSITION OF PENALTIES.—

(A) AMOUNTS WITHHELD.—The Secretary or the Administrator shall transfer any amounts withheld under paragraph (3) to the Airport and Airway Trust Fund.

(B) CIVIL PENALTIES.—With respect to any amount collected by a court in a civil action under paragraph (4), the court shall cause to be transferred to the Airport and Airway Trust Fund any amount collected as a civil penalty under paragraph (4).

(6) REIMBURSEMENT.—The Secretary, acting through the Administrator, shall, as soon as practicable after any amount is collected from a sponsor under paragraph (4), cause to be transferred from the Airport and Airway Trust Fund to an airport affected by a diversion that is the subject of a civil action under paragraph (4), reimbursement in an amount equal to the amount that has been collected from the sponsor under paragraph (4) (including any amount of interest calculated under subsection (*o*)).

(7) STATUTE OF LIMITATIONS.—No person may bring an action for the recovery of funds illegally diverted in violation of this section (as determined under subsections (b) and (*l*)) or section 47133 after the date that is 6 years after the date on which the diversion occurred.

(*o*) INTEREST.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Administrator, shall charge a minimum annual rate of interest on the amount of any illegal diversion of revenues referred to in subsection (n) in an amount equal to the average investment interest rate for tax and loan accounts of the Department of the Treasury (as determined by the Secretary of the Treasury) for the applicable calendar year, rounded to the nearest whole percentage point.

(2) ADJUSTMENT OF INTEREST RATES.—If, with respect to a calendar quarter, the average investment interest rate for tax and loan accounts of the Department of the Treasury exceeds the average investment interest rate for the immediately preceding calendar quarter, rounded to the nearest whole percentage point, the Secretary of the Treasury may adjust the interest rate charged under this subsection in a manner that reflects that change.

(3) ACCRUAL.—Interest assessed under subsection (n) shall accrue from the date of the actual illegal diversion of revenues referred to in subsection (n).

(4) DETERMINATION OF APPLICABLE RATE.—The applicable rate of interest charged under paragraph (1) shall—

(A) be the rate in effect on the date on which interest begins to accrue under paragraph (3); and

(B) remain at a rate fixed under subparagraph (A) during the duration of the indebtedness.

(p) PAYMENT BY AIRPORT TO SPONSOR.—If, in the course of an audit or other review conducted under this section, the Secretary or the Administrator determines that an airport owes a sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport, interest on that amount shall be determined in the same manner as provided in paragraphs (1) through (4) of subsection (*o*), except that the amount of any interest assessed under this subsection shall be determined from the date on which the Secretary or the Administrator makes that determination.

(q) Notwithstanding any written assurances prescribed in subsections (a) through (p), a general aviation airport with more than 300,000 annual operations may be exempt from having to accept scheduled passenger air carrier service, provided that the following conditions are met:

(1) No scheduled passenger air carrier has provided service at the airport within 5 years prior to January 1, 2002.

(2) The airport is located within or underneath the Class B airspace of an airport that maintains an airport operating certificate pursuant to section 44706 of title 49.

(3) The certificated airport operating under section 44706 of title 49 does not contribute to significant passenger delays as defined by DOT/FAA in the ''Airport Capacity Benchmark Report 2001''.

(r) An airport that meets the conditions of subsections (q)(1) through (3) is not subject to section 47524 of title 49 with respect to a prohibition on all scheduled passenger service.

(s) COMPETITION DISCLOSURE REQUIREMENT.—

(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a large hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.

(2) COMPETITIVE ACCESS.—On February 1 and August 1 of each year, an airport that during the previous 6-month period has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport shall transmit a report to the Secretary that—

(A) describes the requests;

(B) provides an explanation as to why the requests could not be accommodated; and

(C) provides a time frame within which, if any, the airport will be able to accommodate the requests.

(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning October 1, 2008.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1256; Pub. L. 103–305, title I, §§ 111(a), (c), 112(a), Aug. 23, 1994, 108 Stat. 1573, 1574; Pub. L. 104–264, title I, § 143, title VIII, § 805(a), (b)(2), Oct. 9, 1996, 110 Stat. 3221, 3271, 3274; Pub. L. 104–287, § 5(9), (80), Oct. 11, 1996, 110 Stat. 3389, 3397; Pub. L. 105–135, title VI, § 604(h)(1), Dec. 2, 1997, 111 Stat. 2634; Pub. L. 106–181, title I, § 125(a), Apr. 5, 2000, 114 Stat. 75; Pub. L. 107–217, § 3(n)(7), Aug. 21, 2002, 116 Stat. 1303; Pub. L. 108–7, div. I, title III, § 321(a), Feb. 20, 2003, 117 Stat. 411; Pub. L. 108–11, title II, § 2702, Apr. 16, 2003, 117 Stat. 600; Pub. L. 108–176, title I, §§ 144, 164, 165, title IV, § 424, Dec. 12, 2003, 117 Stat. 2503, 2513, 2514, 2554.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47107(a)	49 App.:2202(a)(6).	Sept. 3, 1982, Pub. L. 97–248, §§503(a)(6), 505(b)(2), 509(b)(1)(E), 511(a)(1)(B), (C), (2), (5)–(10), (b), 96 Stat. 673, 677, 683, 686, 687.
	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a) (1)–(11), (15), (16)).	
	49 App.:2210(a)(1)(A).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(1)(A), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, §109(a), 101 Stat. 1499.
	49 App.:2210(a)(1)(B), (C), (2).	
	49 App.:2210(a)(3).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(3), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, §109(b), 101 Stat. 1499.
	49 App.:2210(a)(4).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(4), 96 Stat. 686; restated Dec. 30, 1987, Pub. L. 100–223, §109(c), 101 Stat. 1499.
	49 App.:2210(a) (5)–(10).	
	49 App.:2210(a)(11).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(11), 96 Stat. 687; Oct. 31, 1992, Pub. L. 102–581, §113(a), 106 Stat. 4881.
	49 App.:2210(a)(15).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(a)(15); added Dec. 30, 1987, Pub. L. 100–223, §109(f), 101 Stat. 1500.
	49 App.:2210(a)(16).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(a)(16); added Dec. 30, 1987, Pub. L. 100–223, §109(g), 101 Stat. 1501.
47107(b)(1), (2).	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(12)).	
	49 App.:2210(a)(12).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(12), 96 Stat. 687; restated Dec. 30, 1987, Pub. L. 100–223, §109(d), 101 Stat. 1499.
47107(b)(3) ..	49 App.:2210(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(d); added Dec. 30, 1987, Pub. L. 100–223, §109(i), 101 Stat. 1501.
47107(c)(1), (2).	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)).	
	49 App.:2210(a)(13).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(13), 96 Stat. 688; restated Dec. 30, 1987, Pub. L. 100–223, §109(e), 101 Stat. 1499.
	49 App.:2210(a)(14).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(14), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100–223, §109(e), 101 Stat. 1499; restated Dec. 15, 1989, Pub. L. 101–236, §4, 103 Stat. 2061.
47107(c)(3) ..	(no source).	
47107(d)	49 App.:2204(b)(2).	
	49 App.:2208(b)(1)(E) (related to 49 App.:2204(b)(2)).	
47107(e)	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(17)).	
	49 App.:2210(a)(17).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(a)(17); added Dec. 30, 1987, Pub. L. 100–223, §109(h), 101 Stat. 1501; Oct. 31, 1992, Pub. L. 102–581, §117(a), 106 Stat. 4882.
	49 App.:2210(h).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(h); added Oct. 31, 1992, Pub. L. 102–581, §117(b), 106 Stat. 4882.
	49 App.:2210 (note).	Oct. 31, 1992, Pub. L. 102–581, §117(d), 106 Stat. 4883.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47107(f)	49 App.:2210(e).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(e); added Dec. 30, 1987, Pub. L. 100–223, §109(j), 101 Stat. 1501.
47107(g)(1) ..	49 App.:2210(b) (1st, 2d sentences).	
47107(g)(2) ..	49 App.:2208(b)(1)(E) (related to 49 App.:2210(b)).	
47107(h)	49 App.:2210(f).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(f); added Dec. 30, 1987, Pub. L. 100–223, §109(k), 101 Stat. 1502.
47107(i)	49 App.:2210(b) (last sentence).	
47107(j)(1) ...	49 App.:2210(g)(4)(B), (D).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(g); added May 4, 1990, Pub. L. 101–281, §2, 104 Stat. 164.
47107(j)(2) ...	49 App.:2210(g)(1), (2)(B), (4)(A), (C).	
47107(j)(3) ...	49 App.:2210(g)(2)(C), (D).	
47107(j)(4) ...	49 App.:2210(g)(2)(E).	
47107(j)(5) ...	49 App.:2210(g)(2)(F).	
47107(j)(6) ...	49 App.:2210(g)(2)(G).	
47107(j)(7)(A).	49 App.:2210(g)(2)(A).	
47107(j)(7)(B).	49 App.:2210(g)(3).	

In subsection (a), before clause (1), the words ''may approve a project grant application under this subchapter for an airport development project only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)) and the words ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall'' in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (1), the words ''to which the project relates'' and ''fair and'' are omitted as surplus. In clause (2), before subclause (A), the words ''including the requirement that'' are omitted as unnecessary because of the restatement. The words ''air carriers making similar use of the airport'' are substituted for ''each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) . . . all such air carriers which make similar use of such airport'' to eliminate unnecessary words. The words ''and which utilize similar facilities'' are omitted because of the definition of ''airport'' in section 47102 of the revised title. The words ''nondiscriminatory and'' and ''rates, fees, rentals, and other'' are omitted as surplus. In subclause (B), before subclause (i), the words ''except for differences based on'' are substituted for ''subject to'' for clarity. In clause (3), the words ''airport operator'' are substituted for ''airport'' for clarity and consistency in this chapter. In clause (4), before subclause (A), the words ''a right given to only one fixed-base operator to provide services at an airport'' are substituted for ''the providing of services at an airport by a single fixed-based operator'' for clarity. In subclause (B), the words ''the airport operator or owner'' are substituted for ''such airport'' for clarity and consistency in this subchapter. Clause (5) is substituted for 49 App.:2210(a)(1)(B) for consistency and to eliminate unnecessary words. In clause (6), the words ''allowed by the airport operator'' are substituted for ''authorized by the airport or permitted by the airport'' for clarity and consistency in this chapter and to eliminate unnecessary words. In clause (9), the words ''operations at'' are added for clarity. The words ''adequately'', ''removing, lowering, relocating, marking, or lighting or otherwise'', and ''the establishment or creation of'' are omitted as surplus. In clause (10), the word ''near'' is substituted for ''in the immediate vicinity of'', and the word ''uses'' is substituted for ''activities and purposes'', to eliminate unnecessary words. The words ''including landing and takeoff of aircraft'' are omitted as surplus. In clause (12), the words ''property interests of the sponsor in land or water areas or buildings'' are substituted for

''any areas of land or water, or estate therein, or rights in buildings of the sponsor'' for consistency in the revised title and to eliminate unnecessary words. The words ''necessary or'' are omitted as surplus. The words ''for, and that will be used for, constructing . . . facilities for carrying out activities related to air traffic control or navigation'' are substituted for ''for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control . . . for construction . . . of space or facilities for such purposes'' to eliminate unnecessary words. In clause (13), before subclause (A), the words ''schedule of charges'' are substituted for ''fee and rental structure'' for clarity and consistency in this chapter. In subclause (A), the word ''particular'' is omitted as surplus. The word ''including'' is substituted for ''taking into account such factors as'' to eliminate unnecessary words. In subclause (B), the words ''fees, rates, and'' are omitted as surplus. The words ''airport development or airport planning'' are omitted because of the definition of ''project'' in section 47102 of the revised title. In clause (16), before subclause (A), the words ''maintain . . . current'' are substituted for ''keep up to date at all times'' to eliminate unnecessary words. In subclause (B), the words ''be submitted to, and'' and ''amendment'' are omitted as surplus. In subclauses (C) and (D), the words ''changes or'' and ''change or'', respectively, are omitted as surplus. In subclause (D)(ii), the words ''was made'' are added for clarity. In clause (17), the words ''with respect to the project'' are omitted as surplus. In clause (18), the words ''duly authorized agent of'' are omitted because of 49:322(b).

In subsection (b)(1), before clause (A), the words ''may approve a project grant application under this subchapter for an airport development project only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(12)) and ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall'' in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (C) the word ''actual'' is omitted as surplus.

In subsection (b)(2), the words ''Paragraph (1) of this subsection does not apply'' are substituted for ''except that . . . then this limitation on the use of all other revenues generated by the airport . . . shall not apply'' to eliminate unnecessary words. The word ''law'' is substituted for ''provisions . . . in governing statutes'' for consistency in the revised title and to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words ''considered to be'' are omitted as surplus. In clause (B), the words ''department, agency, or instrumentality of the Government'' are substituted for ''Federal agency'' for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), before clause (A), the words ''may approve an application under this subchapter for an airport development project grant only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)) and ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter'' in 49 App.:2210(a) for clarity and to eliminate unnecessary words. The words ''has received or will receive'' are substituted for ''before, on, or after December 30, 1987'' and ''before, on, or after December 31, 1987'' because of the restatement. In clauses (A)(ii) and (B)(ii), the words ''or right'' and ''only'' are omitted as surplus. In clause (A)(iii), the words ''at the discretion of the Secretary'' in 49 App.:2210(a)(13)(C) are omitted as surplus. In clause (B)(iii), the words ''under this subchapter'' are substituted for ''at that airport or within the national airport system'' for clarity and to eliminate unnecessary words.

Subsection (c)(3) is added for clarity.

In subsection (d), the words ''may approve an application under this subchapter for an airport development project grant . . . only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2204(b)(2)) and ''No obligation shall be incurred by the Secretary for airport development . . . unless'' in 49 App.:2204(b) for clarity and to eliminate unnecessary words.

In subsection (e)(1), the words ''may approve a project grant application under this subchapter for an airport development project only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(17)) and ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall'' for clarity and to eliminate unnecessary words. The words ''food, beverages, printed materials, or other'' and ''ground transportation, baggage carts, automobile rentals, or other'' are omitted as surplus.

In subsection (e)(2)–(5), the words ''disadvantaged business enterprise'' are substituted for ''DBE'' for clarity.

In subsection (e)(4), the words ''(as defined by the Secretary by regulation)'' and ''(as defined under section 2204(d)(2)(B) of this title)'' are omitted as unnecessary because of paragraph (1) of this subsection.

In subsection (f)(2)(A), the words ''at the discretion of the Secretary'' are omitted as surplus. The words ''at primary airports and reliever airports'' are omitted as surplus because 49 App.:2206(c)(2), restated in section 47115(c) of the revised title, involves only primary and reliever airports.

In subsection (g)(1)(A), the words ''consistent with the terms of this chapter'' are omitted as surplus.

In subsection (g)(1)(B), the words ''Among other steps to insure such compliance'' and ''on behalf of the United States'' are omitted as surplus.

In subsection (g)(2), the words ''by or . . . the authority of'' are omitted as surplus.

In subsection (h), before clause (1), the words ''proposes to'' are omitted as surplus. The word ''subchapter'' is substituted for ''Act'' in section 511(f) of the Airport and Airway Improvement Act of 1982, as added by section 109(k) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1502), to correct a mistake.

In subsection (i), the words ''a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility'' are substituted for ''any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon'' for consistency in this section.

In subsection (j)(2), the words ''the limitation on the use of revenues generated by airports contained in'', ''located'', ''of funds'', and ''(including revenues generated by such airports from other sources, unrestricted cash on hand, and Federal funds made available under this chapter for expenditure at such airports)'' are omitted as surplus.

In subsection (j)(3)(A), the words ''amount that is greater than 150 percent as determined'' are substituted for ''amount of the excess determined'' for clarity.

In subsection (j)(3)(B), the words ''in the aggregate'' are omitted as surplus.

In subsection (j)(4), the word ''imposed'' is substituted for ''levied'' for consistency in the revised title and with other titles of the Code. The words ''for the use of airport facilities'' and ''a percentage which is'' are omitted as surplus. The words ''Secretary of Labor'' are substituted for ''Bureau of Labor Statistics of the Department of Labor'' because of 29:551 and 557.

In subsection (j)(5), the words ''from fee increases'' and ''for approval'' are omitted as surplus.

REFERENCES IN TEXT

The Federal Airport Act, referred to in subsecs. (a)(13)(B) and (i), is act May 13, 1946, ch. 251, 60 Stat. 170, as amended, which was classified to chapter 14 (§ 1101 et seq.) of former Title 49, Transportation, prior to repeal by Pub. L. 91–258, title I, § 52(a), May 21, 1970, 84 Stat. 235.

The Airport and Airway Development Act of 1970, referred to in subsecs. (a)(13)(B) and (i), is title I of Pub.

L. 91–258, May 21, 1970, 84 Stat. 219, as amended, which was classified principally to chapter 25 (§1701 et seq.) of former Title 49, Transportation. Sections 1 through 30 of title I of Pub. L. 91–258, which enacted sections 1701 to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49, and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91–258 were repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

Section 3(p) of the Small Business Act, referred to in subsec. (e)(1), (4)(B), (6), is classified to section 632(p) of Title 15, Commerce and Trade.

Section 111(b) of the Federal Aviation Administration Authorization Act of 1994, referred to in subsec. (k), is section 111(b) of Pub. L. 103–305, which is set out below.

AMENDMENTS

2003—Subsec. (a)(21). Pub. L. 108–176, §165, added par. (21).

Subsec. (c)(2)(A)(iii). Pub. L. 108–176, §164, inserted before semicolon at end ", including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program".

Subsec. (*l*)(5)(A). Pub. L. 108–176, §144(a), inserted "or any other governmental entity" after "sponsor".

Subsec. (m)(1). Pub. L. 108–176, §144(b)(1), (2), substituted "include a provision in the compliance supplement provisions to" for "promulgate regulations that" and struck out "and opinion of the review" before "concerning the funding activities".

Subsec. (m)(3). Pub. L. 108–176, §144(b)(3), struck out heading and text of par. (3). Text read as follows: "The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor."

Subsec. (q). Pub. L. 108–7 added subsec. (q).

Subsec. (q)(2). Pub. L. 108–11, §2702(1), which directed the amendment of subsec. (q)(2) of section 321 of Pub. L. 108–7 by inserting "or underneath" before "the Class B airspace", was executed by making the insertion in subsec. (q)(2) of this section, to reflect the probable intent of Congress.

Subsec. (q)(3). Pub. L. 108–11, §2702(2), (3), which directed the amendment of subsec. (q)(3) of section 321 of Pub. L. 108–7 by striking out "has sufficient capacity and" after "Title 49" and inserting "passenger" before "delays", was executed by inserting "passenger" before "delays" and striking out "has sufficient capacity and" after "title 49" in subsec. (q)(3) of this section, to reflect the probable intent of Congress.

Subsec. (r). Pub. L. 108–7 added subsec. (r).

Subsec. (s). Pub. L. 108–176, §424, added subsec. (s).

2002—Subsec. (a)(17). Pub. L. 107–217 substituted "chapter 11 of title 40" for "title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)".

2000—Subsec. (h). Pub. L. 106–181 amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: "Before modifying an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

"(1) publish notice of the proposed modification in the Federal Register; and

"(2) provide an opportunity for comment on the proposal."

1997—Subsec. (e)(1). Pub. L. 105–135, §604(h)(1)(A), inserted before period at end "or qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)".

Subsec. (e)(4)(B). Pub. L. 105–135, §604(h)(1)(B), which directed the amendment of subpar. (B) by inserting before the period "or as a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)", was executed by inserting the material before period at end of last sentence to reflect the probable intent of Congress.

Subsec. (e)(6). Pub. L. 105–135, §604(h)(1)(C), inserted "or a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)" after "disadvantaged individual".

1996—Subsec. (a)(20). Pub. L. 104–264, §143, added par. (20).

Subsec. (k). Pub. L. 104–287, §5(9), substituted "Transportation and Infrastructure" for "Public Works and Transportation".

Subsec. (*l*)(1). Pub. L. 104–287, §5(80), substituted "August 23, 1994" for "the date of the enactment of this subsection".

Subsec. (*l*)(5). Pub. L. 104–264, §805(b)(2), added par. (5).

Subsecs. (m) to (p). Pub. L. 104–264, §805(a), added subsecs. (m) to (p).

1994—Subsec. (a)(15). Pub. L. 103–305, §111(a)(1), inserted before semicolon at end "and make such reports available to the public".

Subsec. (a)(19). Pub. L. 103–305, §111(a)(2)–(4), added par. (19).

Subsec. (k). Pub. L. 103–305, §111(c), added subsec. (k).

Subsec. (*l*). Pub. L. 103–305, §112(a), added subsec. (*l*).

EFFECTIVE DATE OF 2003 AMENDMENTS

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.

Pub. L. 108–7, div. I, title III, §321(b), Feb. 20, 2003, 117 Stat. 411, provided that: "This section [amending this section] shall be effective upon enactment [Feb. 20, 2003], notwithstanding any other section of title 49."

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

CONSTRUCTION OF 2000 AMENDMENT

Pub. L. 106–181, title I, §125(e), Apr. 5, 2000, 114 Stat. 76, provided that: "Nothing in any amendment made by this section [amending this section and sections 47125, 47151, and 47153 of this title] shall be construed to authorize the Secretary [of Transportation] to issue a waiver or make a modification referred to in such amendment."

DIVERSION OF AIRPORT REVENUES FOR CLAIMS RELATED TO CERTAIN CEDED LANDS

Pub. L. 105–66, title III, §340, Oct. 27, 1997, 111 Stat. 1448, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) Congress has the authority under article I, section 8 of the Constitution to regulate the air commerce of the United States;

"(2) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

''(3) a grant recipient that uses airport revenues for purposes that are not airport-related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

''(4) illegal diversion of airport revenues undermines the interest of the United States in promoting a strong national air transportation system;

''(5) the policy of the United States that airports should be as self-sustaining as possible and that revenues generated at airports should not be diverted from airport purposes was stated by Congress in 1982 and reaffirmed and strengthened in 1987, 1994, and 1996;

''(6) certain airports are constructed on lands that may have belonged, at one time, to Native Americans, Native Hawaiians, or Alaska Natives;

''(7) contrary to the prohibition against diverting airport revenues from airport purposes under section 47107 of title 49, United States Code, certain payments from airport revenues may have been made for the betterment of Native Americans, Native Hawaiians, or Alaska Natives based upon the claims related to lands ceded to the United States;

''(8) Federal law prohibits diversions of airport revenues obtained from any source whatsoever to occur in the future whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997]; and

''(9) because of the special circumstances surrounding such past diversions of airport revenues for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, it is in the national interest that amounts from airport revenues previously received by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, as specified in subsection (b) of this section, should not be subject to repayment.

''(b) TERMINATION OF REPAYMENT RESPONSIBILITY.—Notwithstanding the provisions of [section] 47107 of title 49, United States Code, or any other provision of law, monies paid for claims related to ceded lands and diverted from airport revenues and received prior to April 1, 1996, by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, shall not be subject to repayment.

''(c) PROHIBITION ON FURTHER DIVERSION.—There shall be no further payment of airport revenues for claims related to ceded lands, whether characterized as operating expenses, rent, or otherwise, and whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997].

''(d) CLARIFICATION.—Nothing in this Act [see Tables for classification] shall be construed to affect any existing Federal statutes, enactments, or trust obligations created thereunder, or any statute of the several States that define the obligations of such States to Native Americans, Native Hawaiians, or Alaska Natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy such obligations.''

FINDINGS AND PURPOSE

Section 802 of title VIII of Pub. L. 104–264 provided that:

''(a) IN GENERAL.—Congress finds that—

''(1) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

''(2) a grant recipient that uses airport revenue for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

''(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

''(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately and must have additional regulatory tools to increase enforcement efforts; and

''(5) sponsors who have been found to have illegally diverted airport revenues—

''(A) have not reimbursed or made restitution to airports in a timely manner; and

''(B) must be encouraged to do so.

''(b) PURPOSE.—The purpose of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title] is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

''(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

''(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

''(3) establishing a statute of limitations for airport revenue diversion actions;

''(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

''(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion.''

DEFINITIONS

Section 803 of title VIII of Pub. L. 104–264 provided that: ''For purposes of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title], the following definitions apply:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

''(2) AIRPORT.—The term 'airport' has the meaning provided that term in section 47102(2) of title 49, United States Code.

''(3) PROJECT GRANT.—The term 'project grant' has the meaning provided that term in section 47102(14) of title 49, United States Code.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(5) SPONSOR.—The term 'sponsor' has the meaning provided that term in section 47102(19) of title 49, United States Code.''

REVISION OF POLICIES AND PROCEDURES; DEADLINES

Section 805(b)(1) of title VIII of Pub. L. 104–264 provided that: ''Not later than 90 days after the date of the enactment of this Act [Oct. 9, 1996], the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(*l*) of title 49, United States Code, to take into account the amendments made to that section by this title.''

FORMAT FOR REPORTING

Section 111(b) of Pub. L. 103–305 provided that: ''Within 180 days after the date of the enactment of this Act [Aug. 23, 1994], the Secretary [of Transportation] shall prescribe a uniform simplified format for reporting that is applicable to airports. Such format shall be designed to enable the public to understand readily how funds are collected and spent at airports, and to provide sufficient information relating to total revenues, operating expenditures, capital expenditures, debt service payments, contributions to restricted funds, accounts, or reserves required by financing agreements or covenants or airport lease or use agreements or covenants. Such format shall require each commercial service airport to report the amount of any revenue surplus, the amount of concession-generated revenue, and other information as required by the Secretary.''

§ 47108. Project grant agreements

(a) OFFER AND ACCEPTANCE.—On approving a project grant application under this subchapter,

the Secretary of Transportation shall offer the sponsor a grant to pay the United States Government's share of the project costs allowable under section 47110 of this title. The Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and regulations prescribed under this subchapter. An offer shall state the obligations to be assumed by the sponsor and the maximum amount the Government will pay for the project from the amounts authorized under chapter 481 of this title (except sections 48102(e), 48106, 48107, and 48110). At the request of the sponsor, an offer of a grant for a project that will not be completed in one fiscal year shall provide for the obligation of amounts apportioned or to be apportioned to a sponsor under section 47114(c) or 47114(d)(3)(A) of this title for the fiscal years necessary to pay the Government's share of the cost of the project. An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

(b) INCREASING GOVERNMENT'S SHARE UNDER THIS SUBCHAPTER OR CHAPTER 475.—(1) When an offer has been accepted in writing, the amount stated in the offer as the maximum amount the Government will pay may be increased only as provided in paragraphs (2) and (3) of this subsection.

(2)(A) For a project receiving assistance under a grant approved under the Airport and Airway Improvement Act of 1982 before October 1, 1987, the amount may be increased by not more than—

(i) 10 percent for an airport development project, except a project for acquiring an interest in land; and

(ii) 50 percent of the total increase in allowable project costs attributable to acquiring an interest in land, based on current creditable appraisals.

(B) An increase under subparagraph (A) of this paragraph may be paid only from amounts the Government recovers from other grants made under this subchapter.

(3) For a project receiving assistance under a grant approved under the Act, this subchapter, or chapter 475 of this title after September 30, 1987, the amount may be increased—

(A) for an airport development project, by not more than 15 percent; and

(B) for a grant after September 30, 1992, to acquire an interest in land for an airport (except a primary airport), by not more than the greater of the following, based on current creditable appraisals or a court award in a condemnation proceeding:

(i) 15 percent; or

(ii) 25 percent of the total increase in allowable project costs attributable to acquiring an interest in land.

(c) INCREASING GOVERNMENT'S SHARE UNDER AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970.—For a project receiving assistance under a grant made under the Airport and Airway Development Act of 1970, the maximum amount the Government will pay may be increased by not more than 10 percent. An increase under this subsection may be paid only from amounts the Government recovers from other grants made under the Act.

(d) CHANGING WORKSCOPE.—With the consent of the sponsor, the Secretary may amend a grant agreement made under this subchapter to change the workscope of a project financed under the grant if the amendment does not result in an increase in the maximum amount the Government may pay under subsection (b) of this section.

(e) CHANGE IN AIRPORT STATUS.—

(1) CHANGES TO NONPRIMARY AIRPORT STATUS.—If the status of a primary airport changes to a nonprimary airport at a time when a development project under a multiyear agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the agreement, subject to the availability of funds.

(2) CHANGES TO NONCOMMERCIAL SERVICE AIRPORT STATUS.—If the status of a commercial service airport changes to a noncommercial service airport at a time when a terminal development project under a phased-funding arrangement is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the arrangement subject to the availability of funds.

(3) CHANGES TO NONHUB PRIMARY STATUS.—If the status of a nonhub primary airport changes to a small hub primary airport at a time when the airport has received discretionary funds under this chapter for a terminal development project in accordance with section 47110(d)(2), and the project is not yet completed, the project shall remain eligible for funding from the discretionary fund and the small airport fund to pay costs allowable under section 47110(d). Such project shall remain eligible for such funds for three fiscal years after the start of construction of the project, or if the Secretary determines that a further extension of eligibility is justified, until the project is completed.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1262; Pub. L. 106–181, title I, § 135(c), Apr. 5, 2000, 114 Stat. 84; Pub. L. 108–176, title I, § 149(a), Dec. 12, 2003, 117 Stat. 2505; Pub. L. 109–115, div. A, title I, § 176(a), Nov. 30, 2005, 119 Stat. 2427.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47108(a)	49 App.:2211(a).	Sept. 3, 1982, Pub. L. 97–248, § 512(a), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100–223, §§ 106(b)(4), 110(c), 101 Stat. 1498, 1502.
47108(b)	49 App.:2211(b).	Sept. 3, 1982, Pub. L. 97–248, § 512(b), 96 Stat. 688; restated Dec. 30, 1987, Pub. L. 100–223, § 110(a), 101 Stat. 1502; Oct. 31, 1992, Pub. L. 102–581, § 109, 106 Stat. 4879.
47108(c)	49 App.:2211(c).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47108(d)	49 App.:2211(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 512(d); added Dec. 30, 1987, Pub. L. 100–223, § 110(b), 101 Stat. 1502.

In subsection (a), the words ''on behalf of the United States'' are omitted as surplus. The words ''or sponsors'' are omitted because of 1:1. The words ''of the application'' are omitted as surplus. The words ''under section 47110 of this title'' are added for clarity. The words ''and conditions'' are omitted as being included in ''terms''. The words ''for the project'' are added for clarity. The words ''an offer of a grant for a project'' are substituted for ''In any case where the Secretary approves a project grant application for a project . . . the offer'' to eliminate unnecessary words. The words ''(including future fiscal years)'' are omitted as surplus. The words ''An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor'' are substituted for ''If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor'' to eliminate unnecessary words. The words ''which have been or may be incurred'' are omitted as surplus.

In subsection (b)(1), the words ''by a sponsor'' are omitted as surplus. The words ''amount the Government will pay'' are substituted for ''obligation of the United States'' for clarity and consistency in this section.

In subsection (b)(2), the text of 49 App.:2211(b)(2) (last sentence) is restated to apply only to 49 App.:2211(b)(2) (1st sentence) to carry out the probable intent of Congress.

In subsection (b)(3)(B), the words ''for fiscal year 1993 and thereafter'' are omitted as unnecessary.

In subsection (c), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''a project receiving assistance under'' are added for consistency.

In subsection (d), the word ''sponsor'' is substituted for ''grant recipient'' for clarity. The words ''amount the Government may pay'' are substituted for ''obligation of the United States authorized'' for clarity and consistency in this section.

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (b)(2)(A), (3), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, as amended, which was classified principally to chapter 31 (§ 2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

The Airport and Airway Development Act of 1970, referred to in subsec. (c), is title I of Pub. L. 91–258, May 21, 1970, 84 Stat. 219, as amended, which was classified principally to chapter 25 (§ 1701 et seq.) of former Title 49. Sections 1 through 30 of title I of Pub. L. 91–258, which enacted sections 1701 to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49, and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91–258 were repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

AMENDMENTS

2005—Subsec. (e)(3). Pub. L. 109–115 added par. (3).

2003—Subsec. (a). Pub. L. 108–176 inserted ''or 47114(d)(3)(A)'' after ''under section 47114(c)''.

2000—Subsec. (e). Pub. L. 106–181 added subsec. (e).

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

LAND ACQUISITION COSTS

Pub. L. 107–71, title I, § 143, Nov. 19, 2001, 115 Stat. 644, provided that: ''In the case of a grant for land acquisition issued to an airport under chapter 471 of title 49, United States Code, prior to January 1, 1995, the Secretary of Transportation may waive the provisions of section 47108 of such title and provide an upward adjustment in the maximum obligation of the United States under that chapter to assist the airport in funding land acquisition costs (and associated eligible costs) that increased as a result of a judicial order.''

[For definitions of ''airport'' and ''United States'' used in section 143 of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.]

§ 47109. United States Government's share of project costs

(a) GENERAL.—Except as provided in subsection (b) or subsection (c) of this section, the United States Government's share of allowable project costs is—

(1) 75 percent for a project at a primary airport having at least .25 percent of the total number of passenger boardings each year at all commercial service airports;

(2) not more than 90 percent for a project funded by a grant issued to and administered by a State under section 47128, relating to the State block grant program;

(3) 90 percent for a project at any other airport;

(4) 70 percent for a project funded by the Administrator from the discretionary fund under section 47115 at an airport receiving an exemption under section 47134; and

(5) for fiscal year 2002, 100 percent for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L).[1]

(b) INCREASED GOVERNMENT SHARE.—If, under subsection (a) of this section, the Government's share of allowable costs of a project in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970, the Government's share under subsection (a) of this section shall be increased by the lesser of—

(1) 25 percent;

(2) one-half of the percentage that the area of unappropriated and unreserved public lands and nontaxable Indian lands in the State is of the total area of the State; or

[1] See References in Text note below.

(3) the percentage necessary to increase the Government's share to the percentage that applied on June 30, 1975, under section 17(b) of the Act.

(c) GRANDFATHER RULE.—

(1) IN GENERAL.—In the case of any project approved after September 30, 2003, at a small hub airport or nonhub airport that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, the Government's share of allowable costs of the project shall be increased by the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979. This subsection shall apply only if—

(A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and

(B) the application under subsection (b), does not increase the Government's share of allowable costs of the project.

(2) LIMITATION.—The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b).

(d) SPECIAL RULE FOR PRIVATELY OWNED RELIEVER AIRPORTS.—If a privately owned reliever airport contributes any lands, easements, or rights-of-way to carry out a project under this subchapter, the current fair market value of such lands, easements, or rights-of-way shall be credited toward the non-Federal share of allowable project costs.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1264; Pub. L. 103–305, title I, § 114, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 104–264, title I, § 149(c), title XII, § 1211, Oct. 9, 1996, 110 Stat. 3227, 3282; Pub. L. 106–181, title I, § 126, Apr. 5, 2000, 114 Stat. 76; Pub. L. 107–71, title I, § 119(a)(4), Nov. 19, 2001, 115 Stat. 629; Pub. L. 108–176, title I, §§ 162, 163, Dec. 12, 2003, 117 Stat. 2513.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47109(a)	49 App.:2209(a), (b).	Sept. 3, 1982, Pub. L. 97–248, § 510, 96 Stat. 685.
47109(b)	49 App.:2209(c).	
47109(c)	49 App.:2212(b)(5).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(5), 96 Stat. 691; Dec. 30, 1987, Pub. L. 100–223, § 111(a)(2), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, § 110(b), 106 Stat. 4880.

In subsection (a), before clause (1), the words ''Except as provided in subsections (b) and (c) of this section'' are substituted for ''Except as otherwise provided in this chapter'' because subsections (b) and (c) restate the only parts of the chapter that provide exceptions to the general rule stated in subsection (a). In clauses (1) and (2), the words ''for a project'' are substituted for ''payable on account of any project contained in an approved project grant application submitted in accordance with this chapter'' in 49 App.:2209(a) and ''payable on account of any project contained in an approved project grant application'' in 49 App.:2209(b) for consistency in this chapter and to eliminate unnecessary words. A project cost is allowable only if it is incurred under a grant agreement made under the chapter, and a grant agreement may be made only if the project grant application is approved. In clause (1), the words ''number of passenger boardings'' are substituted for ''enplaning . . . of the . . . passengers enplaned'' because of the definition of ''passenger boardings'' in section 47102 of the revised title.

In subsection (b), the words ''If, under subsection (a) of this section, the Government's share of allowable costs . . . is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970'' and ''(3) the percentage necessary to increase the Government's share to the percentage that applied on June 30, 1975, under section 17(b) of the Act'' are substituted for 49 App.:2209(c) (last sentence) for clarity. The words ''of the total of all lands therein'' are omitted as surplus.

In subsection (c), the words ''Notwithstanding subsections (a) and (b) of this section'' are substituted for ''Notwithstanding any other provision of this chapter'' because subsections (a) and (b) are the only other parts of the chapter that specify the United States Government's share of allowable project costs.

REFERENCES IN TEXT

Subpars. (J), (K), and (L) of section 47102(3), referred to in subsec. (a)(5), were repealed and new subpars. (J), (K), and (L) were added or designated, by Pub. L. 108–176, title I, § 159(b)(1), Dec. 12, 2003, 117 Stat. 2510.

Section 17(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (b), is section 17(b) of Pub. L. 91–258, which was classified to section 1717(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176, § 162(b), substituted ''Except as provided in subsection (b) or subsection (c)'' for ''Except as provided in subsection (b)'' in introductory provisions.

Subsec. (a)(4). Pub. L. 108–176, § 163, substituted ''70 percent'' for ''40 percent''.

Subsecs. (c), (d). Pub. L. 108–176, § 162(a), added subsec. (c) and redesignated former subsec. (c) as (d).

2001—Subsec. (a)(5). Pub. L. 107–71 added par. (5).

2000—Subsec. (a)(2) to (4). Pub. L. 106–181 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1996—Subsec. (a)(3). Pub. L. 104–264, § 149(c), added par. (3).

Subsec. (c). Pub. L. 104–264, § 1211, added subsec. (c).

1994—Subsec. (a). Pub. L. 103–305, § 114(1), substituted ''subsection (b)'' for ''subsections (b) and (c)''.

Subsec. (c). Pub. L. 103–305, § 114(2), struck out subsec. (c) which read as follows: ''(c) LIMITATION.—Notwithstanding subsections (a) and (b) of this section, the Government's share of project costs allowable under section 47110(d) of this title may not be more than 75 percent, except that the Government's share shall be 85 percent for a project at a commercial service airport that does not have more than .05 percent of the total annual passenger boardings in the United States.''

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of

Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

TEMPORARY INCREASE IN GOVERNMENT SHARE OF CERTAIN AIP PROJECT COSTS

Pub. L. 108–176, title I, §161, Dec. 12, 2003, 117 Stat. 2513, provided that: ''Notwithstanding section 47109(a) of title 49, United States Code, the Government's share of allowable project costs for a grant made in each of fiscal years 2004 through 2007 under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.''

§ 47110. Allowable project costs

(a) GENERAL AUTHORITY.—Except as provided in section 47111 of this title, the United States Government may pay or be obligated to pay, from amounts appropriated to carry out this subchapter, a cost incurred in carrying out a project under this subchapter only if the Secretary of Transportation decides the cost is allowable.

(b) ALLOWABLE COST STANDARDS.—A project cost is allowable—

(1) if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter, including any cost a sponsor incurs related to an audit the Secretary requires under section 47121(b) or (d) of this title and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type;

(2)(A) if the cost is incurred after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed;

(B) if the cost is incurred after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatability[1] program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;

(C) if the Government's share is paid only with amounts apportioned under paragraphs (1) and (2) of section 47114(c) or section 47114(d)(3)(A) and if the cost is incurred—

(i) after September 30, 1996;

(ii) before a grant agreement is executed for the project; and

(iii) in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after the grant agreement had been executed; or

(D) if the cost is incurred after September 11, 2001, for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L)[2] and shall not depend upon the date of execution of a grant agreement made under this subchapter;

(3) to the extent the cost is reasonable in amount;

(4) if the cost is not incurred in a project for airport development or airport planning for which other Government assistance has been granted;

(5) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title); and

(6) if the cost is for a project not described in section 47102(3) for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that include low-emission technology, but only to the extent of the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary.

(c) CERTAIN PRIOR COSTS AS ALLOWABLE COSTS.—The Secretary may decide that a project cost under subsection (b)(2)(A) of this section incurred after May 13, 1946, and before the date the grant agreement is executed is allowable if it is—

(1) necessarily incurred in formulating an airport development project, including costs incurred for field surveys, plans and specifications, property interests in land or airspace, and administration or other incidental items that would not have been incurred except for the project; or

(2) necessarily and directly incurred in developing the work scope of an airport planning project.

(d) TERMINAL DEVELOPMENT COSTS.—(1) The Secretary may decide that the cost of terminal development (including multi-modal terminal development) in a nonrevenue-producing public-use area of a commercial service airport is allowable for an airport development project at the airport—

(A) if the sponsor certifies that the airport, on the date the grant application is submitted to the Secretary, has—

(i) all the safety equipment required for certification of the airport under section 44706 of this title;

(ii) all the security equipment required by regulation; and

(iii) provided for access, to the area of the airport for passengers for boarding or exiting aircraft, to those passengers boarding or exiting aircraft, except air carrier aircraft;

(B) if the cost is directly related to moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; and

(C) under terms necessary to protect the interests of the Government.

(2) In making a decision under paragraph (1) of this subsection, the Secretary may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, reconstruction, repair, and improvement in a nonrevenue-producing parking lot if—

[1] So in original. Probably should be ''compatibility''.

[2] See References in Text note below.

(A) except as provided in section 47108(e)(3), the airport does not have more than .05 percent of the total annual passenger boardings in the United States; and

(B) the sponsor certifies that any needed airport development project affecting safety, security, or capacity will not be deferred because of the Secretary's approval.

(e) LETTERS OF INTENT.—(1) The Secretary may issue a letter of intent to the sponsor stating an intention to obligate from future budget authority an amount, not more than the Government's share of allowable project costs, for an airport development project (including costs of formulating the project) at a primary or reliever airport. The letter shall establish a schedule under which the Secretary will reimburse the sponsor for the Government's share of allowable project costs, as amounts become available, if the sponsor, after the Secretary issues the letter, carries out the project without receiving amounts under this subchapter.

(2) Paragraph (1) of this subsection applies to a project—

(A) about which the sponsor notifies the Secretary, before the project begins, of the sponsor's intent to carry out the project;

(B) that will comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter; and

(C) that meets the criteria of section 47115(d) and, if for a project at a commercial service airport having at least 0.25 percent of the boardings each year at all such airports, the Secretary decides will enhance system-wide airport capacity significantly.

(3) A letter of intent issued under paragraph (1) of this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation laws.

(4) The total estimated amount of future Government obligations covered by all outstanding letters of intent under paragraph (1) of this subsection may not be more than the amount authorized to carry out section 48103 of this title, less an amount reasonably estimated by the Secretary to be needed for grants under section 48103 that are not covered by a letter.

(5) LETTERS OF INTENT.—The Secretary may not require an eligible agency to impose a passenger facility fee under section 40117 in order to obtain a letter of intent under this section.

(6) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(f) NONALLOWABLE COSTS.—Except as provided in subsection (d) of this section and section 47118(f) of this title, a cost is not an allowable airport development project cost if it is for—

(1) constructing a public parking facility for passenger automobiles;

(2) constructing, altering, or repairing part of an airport building, except to the extent the building will be used for facilities or activities directly related to the safety of individuals at the airport;

(3) decorative landscaping; or

(4) providing or installing sculpture or art works.

(g) USE OF DISCRETIONARY FUNDS.—A project for which cost reimbursement is provided under subsection (b)(2)(C) shall not receive priority consideration with respect to the use of discretionary funds made available under section 47115 of this title even if the amounts made available under paragraphs (1) and (2) of section 47114(c) or section 47114(d)(3)(A) are not sufficient to cover the Government's share of the cost of the project.

(h) NONPRIMARY AIRPORTS.—The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1264; Pub. L. 103–305, title I, §115, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, §6(64), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, §144, Oct. 9, 1996, 110 Stat. 3222; Pub. L. 106–181, title I, §127, Apr. 5, 2000, 114 Stat. 76; Pub. L. 107–71, title I, §119(a)(2), Nov. 19, 2001, 115 Stat. 628; Pub. L. 108–176, title I, §§145, 149(b), 159(c), Dec. 12, 2003, 117 Stat. 2504, 2505, 2511; Pub. L. 109–115, div. A, title I, §176(b), Nov. 30, 2005, 119 Stat. 2427.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47110(a)	49 App.:2212(a) (1st, last sentences).	Sept. 3, 1982, Pub. L. 97–248, §513(a), 96 Stat. 689; Aug. 4, 1989, Pub. L. 101–71, §3, 103 Stat. 181.
47110(b)	49 App.:2212(a) (2d sentence cls. (1), (2) (words before period), (3), (4)).	
47110(c)	49 App.:2212(a) (2d sentence cl. (2) (words after period)).	
47110(d)	49 App.:2212(b)(1), (6).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(1), (6), 96 Stat. 691; Oct. 31, 1992, Pub. L. 102–581, §110(a), 106 Stat. 4879.
47110(e)	49 App.:2212(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §513(d); added Dec. 30, 1987, Pub. L. 100–223, §111(c), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, §111, 106 Stat. 4880.
47110(f)	49 App.:2212(c).	Sept. 3, 1982, Pub. L. 97–248, §513(c), 96 Stat. 691; Dec. 30, 1987, Pub. L. 100–223, §111(b), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, §107(c)(2), 106 Stat. 4879.

In subsection (a), the words ''for airport development or airport planning'' are omitted because of the definition of ''project'' in section 47102 of the revised title. The text of 49 App.:2212(a) (last sentence) is omitted as surplus because of 49:322(a).

In subsection (b)(1), the word ''approved'' is omitted as surplus because a project that was not approved could not be carried out in compliance with a grant

agreement. The words ''in compliance with the grant agreement made for the project under this subchapter'' are substituted for ''in conformity with the terms and conditions of the grant agreement entered into in connection with the project'' to eliminate unnecessary words. The word ''sponsor'' is substituted for ''recipient'' for clarity.

In subsection (b)(2)(A), the words ''with respect to the project'' are omitted as unnecessary because ''the grant agreement'' means ''the grant agreement made for the project'' referred to in clause (1) of this subsection. The words ''under the project'' are omitted as surplus.

Subsection (b)(3) is substituted for ''in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable'' to eliminate unnecessary words.

Subsection (b)(5) is substituted for ''except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement except to the extent authorized by section 2211(b) of this Appendix'' for consistency in this section.

In subsection (c), before clause (1), the words ''The Secretary may decide that a project cost . . . is allowable'' are substituted for ''However, the allowable costs of a project . . . may include . . . and the allowable costs of a project . . . may include'' for clarity and consistency in the revised title. The words ''incurred after May 13, 1946, and before the date the grant agreement is executed'' are substituted for ''which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946'' and ''which were incurred subsequent to May 13, 1946'' to eliminate unnecessary words. In clause (1), the words ''preparation of'', ''acquisition of'', ''by the sponsor specifically in connection with the accomplishment of the project for airport development'' are omitted as surplus. The words ''property interests in land or airspace'' are substituted for ''land or interests therein or easements through or other interests in airspace'' to eliminate unnecessary words.

In subsection (d)(1), before clause (A), the words ''The Secretary may decide that the cost . . . is allowable'' are substituted for ''the Secretary may approve, as allowable project costs'' and ''The Secretary shall approve project costs allowable under paragraph (1) of this subsection'' for clarity and consistency in this section. In clause (B), the words ''the boundaries of'' are omitted as surplus. In clause (C), the words ''and conditions'' are omitted as being included in ''terms''.

In subsection (d)(2), the words ''In making a decision under paragraph (1) of this subsection, the Secretary may approve as allowable costs'' are substituted for ''In the case of a commercial service airport . . . the Secretary may approve, under the preceding sentence as allowable project costs'' for consistency in this subsection.

In subsection (e)(1), the word ''sponsor'' is substituted for ''applicant'' for consistency. The words ''stipulated as'' and ''Subject to the provisions of this paragraph'' are omitted as surplus. The word ''reimburse'' is substituted for ''make payments under paragraph (2) of this subsection'' and ''pay'' for clarity. The words ''payable on account of such project in accordance with such letter of intent'' are omitted as surplus.

In subsection (e)(2), before clause (A), the text of 49 App.:2212(d)(1)(C) (last sentence) is omitted as obsolete.

In subsection (e)(3), the words ''A letter of intent issued'' are substituted for ''action'' for clarity. The word ''deemed'' before ''an obligation'' is omitted as surplus.

In subsection (f)(2), the words ''of a hangar or'' are omitted as being included in ''airport building''.

PUB. L. 103–429

The source credits for all of subsection (b) are included for clarity though only subsection (b)(2) is affected by the amendment. The source credits for 49:47110(c) are included to correct a mistake on p. 405 of H. R. Rept. 103–180 (103d Cong., 1st Sess., July 15, 1993).

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47110(b)	49 App.:2212(a) (2d sentence cls. (1), (2)(A) (words before period), (B), (3), (4)).	Sept. 3, 1982, Pub. L. 97–248, §513(a) (2d sentence), as amended May 26, 1994, Pub. L. 103–260, §106, 108 Stat. 699.
47110(c)	49 App.:2212(a) (2d sentence cl. (2)(A) (words after period).	

In subsection (b)(2)(C)(ii), the words ''before the cost is incurred'' are added for clarity.

REFERENCES IN TEXT

Subpars. (J), (K), and (L) of section 47102(3), referred to in subsec. (b)(2)(D), were repealed and new subpars. (J), (K), and (L) were added or designated, by Pub. L. 108–176, title I, §159(b)(1), Dec. 12, 2003, 117 Stat. 2510.

AMENDMENTS

2005—Subsec. (d)(2)(A). Pub. L. 109–115, which directed amendment of section 47110(d)(2)(A), without specifying the title to be amended, by substituting ''(A) except as provided in section 47108(e)(3), the'' for ''(A) the'', was executed to this section, to reflect the probable intent of Congress.

2003—Subsec. (b)(1). Pub. L. 108–176, §145, inserted ''and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type'' before semicolon at end.

Subsec. (b)(2)(C). Pub. L. 108–176, §149(b)(1), substituted ''or section 47114(d)(3)(A)'' for ''of this title'' in introductory provisions.

Subsec. (b)(6). Pub. L. 108–176, §159(c), added par. (6).

Subsec. (g). Pub. L. 108–176, §149(b)(2), inserted ''or section 47114(d)(3)(A)'' after ''of section 47114(c)'' and substituted ''of the project'' for ''of project''.

Subsec. (h). Pub. L. 108–176, §149(b)(3), added subsec. (h).

2001—Subsec. (b)(2)(D). Pub. L. 107–71 added subpar. (D).

2000—Subsec. (e)(2)(C). Pub. L. 106–181, §127(1), added subpar. (C) and struck out former subpar. (C) which read as follows: ''the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(d) of this title.''

Subsec. (e)(5). Pub. L. 106–181, §127(2), added par. (5) and struck out former par. (5) which read as follows: ''A letter of intent issued under paragraph (1) of this subsection may not condition the obligation of amounts on the imposition of a passenger facility fee.''

1996—Subsec. (b)(2)(C). Pub. L. 104–264, §144(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''if the Government's share is paid only with amounts apportioned under section 47114(c)(1)(A) and (2) of this title and if the cost is incurred—

''(i) during the fiscal year ending September 30, 1994;

''(ii) before a grant agreement is executed for the project but according to an airport layout plan the Secretary approves before the cost is incurred and all applicable statutory and administrative requirements that would apply to the project if the agreement had been executed; and

''(iii) for work related to a project for which a grant agreement previously was executed during the fiscal year ending September 30, 1994;''.

Subsec. (g). Pub. L. 104–264, §144(b), added subsec. (g).

1994—Subsec. (b)(2). Pub. L. 103–429 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''if the cost is incurred—

''(A) after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed; or

''(B) after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as

part of a Government-approved noise compatibility program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;''.

Subsec. (e)(6). Pub. L. 103–305 added par. (6).

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

LETTERS OF INTENT FOR AIRPORT SECURITY IMPROVEMENT PROJECTS

Pub. L. 108–7, div. I, title III, §367, Feb. 20, 2003, 117 Stat. 423, provided that:

''(a) The Under Secretary of Transportation for Security may issue a letter of intent to an airport committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an airport security improvement project (including interest costs and costs of formulating the project) at the airport. The letter shall establish a schedule under which the Under Secretary will reimburse the airport for the Government's share of the project's costs, as amounts become available, if the airport, after the Under Secretary issues the letter, carries out the project without receiving amounts under Chapter 471 of title 49 [United States Code].

''(b) The airport shall notify the Under Secretary of the airport's intent to carry out the airport security improvement project before the project begins.

''(c) A letter of intent may be issued under this section only if—

''(1) The airport security improvement project to which the letter applies involves the replacement of baggage conveyer systems or the reconfiguration of terminal baggage areas in order to install explosive detection systems; and

''(2) The Under Secretary determines that the project will improve security or will improve the efficiency of the airport without lessening security.

''(d) A letter of intent issued under this section is not an obligation of the Government under section 1501 of title 31 [United States Code], and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

''(e) The Government's share of the project's cost shall be 75 percent for a project at an airport having at least 0.25 percent of the total number of passenger boardings each year at all airports and 90 percent for a project at any other airport.

''(f) Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this section in the same fiscal year as the letter of intent is issued.

''(g) The Under Secretary shall notify the House and Senate Committees on Appropriations, the House Transportation and Infrastructure Committee, and the Senate Commerce, Science, and Transportation Committee at least 3 days prior to the issuance of a letter of intent under this section.

''(h) There is authorized to be appropriated to carry out this section $500,000,000 in each of fiscal years 2003, 2004, 2005, 2006, and 2007.''

LETTERS OF INTENT; DURATION OF AUTHORITY AND APPROVAL BY CONGRESS

Pub. L. 102–388, title III, §320, Oct. 6, 1992, 106 Stat. 1546, provided that: ''The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended [see subsec. (e) of this section], to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act [substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by first section thereof as this subchapter]: *Provided*, That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives.'' Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–143, title III, §320, Oct. 28, 1991, 105 Stat. 942.

Pub. L. 101–516, title III, §320, Nov. 5, 1990, 104 Stat. 2181.

Pub. L. 101–164 title III, §326, Nov. 21, 1989, 103 Stat. 1096.

Pub. L. 100–457, title III, §334, Sept. 30, 1988, 102 Stat. 2153.

§47111. Payments under project grant agreements

(a) GENERAL AUTHORITY.—After making a project grant agreement under this subchapter and consulting with the sponsor, the Secretary of Transportation may decide when and in what amounts payments under the agreement will be made. Payments totaling not more than 90 percent of the United States Government's share of the project's estimated allowable costs may be made before the project is completed if the sponsor certifies to the Secretary that the total amount expended from the advance payments at any time will not be more than the cost of the airport development work completed on the project at that time.

(b) RECOVERING PAYMENTS.—If the Secretary determines that the total amount of payments made under a grant agreement under this subchapter is more than the Government's share of the total allowable project costs, the Government may recover the excess amount. If the Secretary finds that a project for which an advance payment was made has not been completed within a reasonable time, the Government may recover any part of the advance payment for which the Government received no benefit.

(c) PAYMENT DEPOSITS.—A payment under a project grant agreement under this subchapter may be made only to an official or depository designated by the sponsor and authorized by law to receive public money.

(d) WITHHOLDING PAYMENTS.—(1) The Secretary may withhold a payment under a grant agreement under this subchapter for more than 180 days after the payment is due only if the Secretary—

(A) notifies the sponsor and provides an opportunity for a hearing; and

(B) finds that the sponsor has violated the agreement.

(2) The 180-day period may be extended by—

(A) agreement of the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding a payment may apply for review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The petition must be filed not later than 60 days after the order is served on the petitioner.

(e) ACTION ON GRANT ASSURANCES CONCERNING AIRPORT REVENUES.—If, after notice and opportunity for a hearing, the Secretary finds a violation of section 47107(b) of this title, as further defined by the Secretary under section 47107(*l*) of this title, or a violation of an assurance made under section 47107(b) of this title, and the Secretary has provided an opportunity for the airport sponsor to take corrective action to cure such violation, and such corrective action has not been taken within the period of time set by the Secretary, the Secretary shall withhold approval of any new grant application for funds under this chapter, or any proposed modification to an existing grant that would increase the amount of funds made available under this chapter to the airport sponsor, and withhold approval of any new application to impose a fee under section 40117 of this title. Such applications may thereafter be approved only upon a finding by the Secretary that such corrective action as the Secretary requires has been taken to address the violation and that the violation no longer exists.

(f) JUDICIAL ENFORCEMENT.—For any violation of this chapter or any grant assurance made under this chapter, the Secretary may apply to the district court of the United States for any district in which the violation occurred for enforcement. Such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining any person from further violation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1266; Pub. L. 103–305, title I, § 112(b), Aug. 23, 1994, 108 Stat. 1575.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47111(a)	49 App.:2213 (1st, 2d sentences).	Sept. 3, 1982, Pub. L. 97–248, § 514, 96 Stat. 691.
47111(b)	49 App.:2213 (3d, 4th sentences).	
47111(c)	49 App.:2213 (last sentence).	
47111(d)	49 App.:2218(b) (related to payment).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 519(b) (related to payment); added Dec. 30, 1987, Pub. L. 100–223, § 112(2), 101 Stat. 1504.

In subsection (a), the words ''the terms of'' are omitted as surplus. The words ''totaling'' and ''total'' are substituted for ''in an aggregate amount'' and ''aggregate'' for consistency in the revised title. The words ''from time to time'' are omitted as surplus. The words ''before the project is completed'' are substituted for ''in advance of accomplishment of the airport project to which the payments relate'' for consistency in this chapter and to eliminate unnecessary words.

In subsection (b), the words ''at any time'' are omitted as surplus. The words ''project for which an advance payment was made has not been completed within a reasonable time'' are substituted for ''any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed'' for clarity, for consistency in this chapter, and to eliminate unnecessary words.

In subsection (d)(1) and (2), the word ''sponsor'' is substituted for ''recipient'' and ''grant recipient'' for clarity.

In subsection (d)(2)(A), the word ''mutual'' is omitted as surplus.

In subsection (d)(3), the words ''adversely affected'' are substituted for ''aggrieved'' for consistency in the revised title and with other titles of the United States Code. The words ''the date on which'' are omitted as surplus.

AMENDMENTS

1994—Subsecs. (e), (f). Pub. L. 103–305 added subsecs. (e) and (f).

§ 47112. Carrying out airport development projects

(a) CONSTRUCTION WORK.—The Secretary of Transportation may inspect and approve construction work for an airport development project carried out under a grant agreement under this subchapter. The construction work must be carried out in compliance with regulations the Secretary prescribes. The regulations shall require the sponsor to make necessary cost and progress reports on the project. The regulations may amend or modify a contract related to the project only if the contract was made with actual notice of the regulations.

(b) PREVAILING WAGES.—A contract for more than $2,000 involving labor for an airport development project carried out under a grant agreement under this subchapter must require contractors to pay labor minimum wage rates as determined by the Secretary of Labor under sections 3141–3144, 3146, and 3147 of title 40. The minimum rates must be included in the bids for the work and in the invitation for those bids.

(c) VETERANS' PREFERENCE.—(1) In this subsection—

(A) ''disabled veteran'' has the same meaning given that term in section 2108 of title 5.

(B) ''Vietnam-era veteran'' means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces for more than 180 consecutive days, any part of which occurred after August 4, 1964, and before May 8, 1975, and who was separated from the armed forces under honorable conditions.

(2) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that preference in the employment of labor (except in executive, administrative, and supervisory positions) be given to Vietnam-era veterans and disabled veterans when they are available and qualified for the employment.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1267; Pub. L. 107–217, § 3(n)(8), Aug. 21, 2002, 116 Stat. 1303.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47112(a)	49 App.:2214(a).	Sept. 3, 1982, Pub. L. 97–248, § 515, 96 Stat. 691.
47112(b)	49 App.:2214(b).	
47112(c)	49 App.:2214(c).	

In this section, the words ''for an airport development project carried out under a grant agreement under this subchapter'' are substituted for ''on any project for airport development contained in an approved project grant application submitted in accordance with this chapter'' in 49 App.:2214(a), ''on projects for airport development approved under this chapter'' in 49 App.:2214(b), and ''under project grants for airport development approved under this chapter'' in 49 App.:2214(c) for clarity and consistency in this section. See H.R. Rept. No. 97–760, 97th Cong., 2d Sess., p. 715 (1982).

In subsection (a), the words ''or sponsors'' are omitted because of 1:1.

In subsection (b), the words ''must require contractors to pay labor minimum wage rates'' are substituted for ''shall contain provisions establishing minimum rates of wages . . . which contractors shall pay to skilled and unskilled labor'' to eliminate unnecessary words. The word ''proposals'' is omitted as included in ''bids''.

Subsection (c)(1)(A) is substituted for ''a disabled veteran is an individual described in section 2108(2) of title 5'' for consistency in the revised title and with other titles of the Code.

In subsection (c)(1)(B), the words ''after August 4, 1964, and before May 8, 1975'' are substituted for ''during the period beginning August 5, 1964, and ending May 7, 1975'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (c)(2), the words ''must require that'' are substituted for ''shall contain such provisions as are necessary to insure that'', and the words ''when they are available and qualified for the employment'' are substituted for ''However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates'', to eliminate unnecessary words.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–217 substituted ''sections 3141–3144, 3146, and 3147 of title 40'' for ''the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5)''.

§ 47113. Minority and disadvantaged business participation

(a) DEFINITIONS.—In this section—

(1) ''small business concern''—

(A) has the same meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632); but

(B) does not include a concern, or group of concerns controlled by the same socially and economically disadvantaged individual, that has average annual gross receipts over the prior 3 fiscal years of more than $16,015,000, as adjusted by the Secretary of Transportation for inflation;

(2) ''socially and economically disadvantaged individual'' has the same meaning given that term in section 8(d) of the Act (15 U.S.C. 637(d)) and relevant subcontracting regulations prescribed under section 8(d), except that women are presumed to be socially and economically disadvantaged; and

(3) the term ''qualified HUBZone small business concern'' has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(*o*)[1]).

(b) GENERAL REQUIREMENT.—Except to the extent the Secretary decides otherwise, at least 10 percent of amounts available in a fiscal year under section 48103 of this title shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals or qualified HUBZone small business concerns.

(c) UNIFORM CRITERIA.—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a small business concern qualifies under this section. The criteria shall include onsite visits, personal interviews, licenses, analyses of stock ownership and bonding capacity, listings of equipment and work completed, resumes of principal owners, financial capacity, and type of work preferred.

(d) SURVEYS AND LISTS.—Each State or airport sponsor annually shall survey and compile a list of small business concerns referred to in subsection (b) of this section and the location of each concern in the State.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1268; Pub. L. 103–429, § 6(65), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 105–135, title VI, § 604(h)(2), Dec. 2, 1997, 111 Stat. 2635.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47113(a)	49 App.:2204(d)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 505(d); added Dec. 30, 1987, Pub. L. 100–223, § 105(f), 101 Stat. 1493; Oct. 31, 1992, Pub. L. 102–581, § 117(c), 106 Stat. 4883.
47113(b)	49 App.:2204(d)(1).	
47113(c)	49 App.:2204(d)(4).	
47113(d)	49 App.:2204(d)(3).	

In subsection (a)(1)(B), the words ''or individuals'' are omitted because of 1:1.

In subsection (a)(2), the reference is to section 8(c) of the Act because 15:637(d) was redesignated as 15:637(c) by section 3 of the Women's Business Development Act of 1991 (Public Law 102–191, 105 Stat. 1591).

In subsection (b), the words ''beginning after September 30, 1987'' are omitted as obsolete.

PUB. L. 103–429

This amends 49:47113(a)(2) to correct erroneous cross-references.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–135, § 604(h)(2)(A), substituted semicolon for period at end of par. (1), substituted ''; and'' for period at end of par. (2), and added par. (3).

Subsec. (b). Pub. L. 105–135, § 604(h)(2)(B), inserted ''or qualified HUBZone small business concerns'' before period at end.

1994—Subsec. (a)(2). Pub. L. 103–429 substituted ''8(d)'' for ''8(c)'' in two places and ''637(d))'' for ''637(c))''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of Title 15, Commerce and Trade.

[1] So in original. Probably should be ''632(p)''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 47114. Apportionments

(a) DEFINITION.—In this section, ''amount subject to apportionment'' means the amount newly made available under section 48103 of this title for a fiscal year.

(b) APPORTIONMENT DATE.—On the first day of each fiscal year, the Secretary of Transportation shall apportion the amount subject to apportionment for that fiscal year as provided in this section.

(c) AMOUNTS APPORTIONED TO SPONSORS.—

(1) PRIMARY AIRPORTS.—

(A) APPORTIONMENT.—The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

(i) $7.80 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;

(ii) $5.20 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;

(iii) $2.60 for each of the next 400,000 passenger boardings at the airport during the prior calendar year;

(iv) $.65 for each of the next 500,000 passenger boardings at the airport during the prior calendar year; and

(v) $.50 for each additional passenger boarding at the airport during the prior calendar year.

(B) MINIMUM AND MAXIMUM APPORTIONMENTS.—Not less than $650,000 nor more than $22,000,000 may be apportioned under subparagraph (A) of this paragraph to an airport sponsor for a primary airport for each fiscal year.

(C) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is $3,200,000,000 or more—

(i) the amount to be apportioned to a sponsor under subparagraph (A) shall be increased by doubling the amount that would otherwise be apportioned;

(ii) the minimum apportionment to a sponsor under subparagraph (B) shall be $1,000,000 rather than $650,000; and

(iii) the maximum apportionment to a sponsor under subparagraph (B) shall be $26,000,000 rather than $22,000,000.

(D) NEW AIRPORTS.—Notwithstanding subparagraph (A), the Secretary shall apportion on the first day of the first fiscal year following the official opening of a new airport with scheduled passenger air transportation an amount equal to the minimum amount set forth in subparagraph (B) or (C), as appropriate, to the sponsor of such airport.

(E) USE OF PREVIOUS FISCAL YEAR'S APPORTIONMENT.—Notwithstanding subparagraph (A), the Secretary may apportion to an airport sponsor in a fiscal year an amount equal to the amount apportioned to that sponsor in the previous fiscal year if the Secretary finds that—

(i) passenger boardings at the airport fell below 10,000 in the calendar year used to calculate the apportionment;

(ii) the airport had at least 10,000 passenger boardings in the calendar year prior to the calendar year used to calculate apportionments to airport sponsors in a fiscal year; and

(iii) the cause of the shortfall in passenger boardings was a temporary but significant interruption in service by an air carrier to that airport due to an employment action, natural disaster, or other event unrelated to the demand for air transportation at the affected airport.

(F) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal years 2004 and 2005 to the sponsor of the airport an amount equal to the amount apportioned to that sponsor in fiscal year 2002 or 2003, whichever amount is greater, if the Secretary finds that—

(i) the passenger boardings at the airport were below 10,000 in calendar year 2002 or 2003;

(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001.

(G) SPECIAL RULE FOR FISCAL YEAR 2006.—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal year 2006 to the sponsor of the airport an amount equal to $500,000, if the Secretary finds that—

(i) the passenger boardings at the airport were below 10,000 in calendar year 2004;

(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001.

(2) CARGO AIRPORTS.—

(A) APPORTIONMENT.—Subject to subparagraph (D), the Secretary shall apportion an amount equal to 3.5 percent of the amount subject to apportionment each fiscal year to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds.

(B) SUBALLOCATION FORMULA.—Any funds apportioned under subparagraph (A) to sponsors of airports described in subparagraph (A) shall be allocated among those airports in the proportion that the total annual landed weight of aircraft described in subparagraph (A) landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports.

(C) LIMITATION.—In any fiscal year in which the total amount made available under section 48103 is less than $3,200,000,000, not more than 8 percent of the amount apportioned under subparagraph (A) may be apportioned for any one airport.

(D) DISTRIBUTION TO OTHER AIRPORTS.—Before apportioning amounts to the sponsors of airports under subparagraph (A) for a fiscal year, the Secretary may set-aside a portion of such amounts for distribution to the sponsors of other airports, selected by the Secretary, that the Secretary finds will be served primarily by aircraft providing air transportation of only cargo.

(E) DETERMINATION OF LANDED WEIGHT.—Landed weight under this paragraph is the landed weight of aircraft landing at each airport described in subparagraph (A) during the prior calendar year.

(d) AMOUNTS APPORTIONED FOR GENERAL AVIATION AIRPORTS.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) AREA.—The term ''area'' includes land and water.

(B) POPULATION.—The term ''population'' means the population stated in the latest decennial census of the United States.

(2) APPORTIONMENT.—Except as provided in paragraph (3), the Secretary shall apportion to the States 18.5 percent of the amount subject to apportionment for each fiscal year as follows:

(A) 0.66 percent of the apportioned amount to Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(B) Except as provided in paragraph (4), 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in subparagraph (A) in the proportion that the population of each of those States bears to the total population of all of those States.

(C) Except as provided in paragraph (4), 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in subparagraph (A) in the proportion that the area of each of those States bears to the total area of all of those States.

(3) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is $3,200,000,000 or more, rather than making an apportionment under paragraph (2), the Secretary shall apportion 20 percent of the amount subject to apportionment for each fiscal year as follows:

(A) To each airport, excluding primary airports but including reliever and nonprimary commercial service airports, in States the lesser of—

(i) $150,000; or

(ii) ⅕ of the most recently published estimate of the 5-year costs for airport improvement for the airport, as listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103.

(B) Any remaining amount to States as follows:

(i) 0.62 percent of the remaining amount to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.

(ii) Except as provided in paragraph (4), 49.69 percent of the remaining amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (i) in the proportion that the population of each of those States bears to the total population of all of those States.

(iii) Except as provided in paragraph (4), 49.69 percent of the remaining amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (i) in the proportion that the area of each of those States bears to the total area of all of those States.

(4) AIRPORTS IN ALASKA, PUERTO RICO, AND HAWAII.—An amount apportioned under paragraph (2) or (3) to Alaska, Puerto Rico, or Hawaii for airports in such State may be made available by the Secretary for any public airport in those respective jurisdictions.

(5) USE OF STATE HIGHWAY SPECIFICATIONS.—

(A) IN GENERAL.—The Secretary may permit the use of State highway specifications for airfield pavement construction using funds made available under this subsection at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight if the Secretary determines that—

(i) safety will not be negatively affected; and

(ii) the life of the pavement will not be shorter than it would be if constructed using Administration standards.

(B) LIMITATION.—An airport may not seek funds under this subchapter for runway rehabilitation or reconstruction of any such airfield pavement constructed using State highway specifications for a period of 10 years after construction is completed unless the Secretary determines that the rehabilitation or reconstruction is required for safety reasons.

(6) INTEGRATED AIRPORT SYSTEM PLANNING.—Notwithstanding any other provision of this subsection, funds made available under this subsection may be used for integrated airport system planning that encompasses one or more primary airports.

(e) SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—

(1) IN GENERAL.—Notwithstanding subsections (c) and (d) of this section, the Secretary may apportion amounts for airports in Alaska in the way in which amounts were apportioned in the fiscal year ending September 30, 1980, under section 15(a) of the Act. However, in apportioning amounts for a fiscal year under this subsection, the Secretary shall apportion—

(A) for each primary airport at least as much as would be apportioned for the airport under subsection (c)(1) of this section; and

(B) a total amount at least equal to the minimum amount required to be apportioned to airports in Alaska in the fiscal year ending September 30, 1980, under section 15(a)(3)(A) of the Act.

(2) AUTHORITY FOR DISCRETIONARY GRANTS.—This subsection does not prohibit the Secretary from making project grants for airports in Alaska from the discretionary fund under section 47115 of this title.

(3) AIRPORTS ELIGIBLE FOR FUNDS.—An amount apportioned under this subsection may be used for any public airport in Alaska.

(4) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is $3,200,000,000 or more, the amount that may be apportioned for airports in Alaska under paragraph (1) shall be increased by doubling the amount that would otherwise be apportioned.

(f) REDUCING APPORTIONMENTS.—

(1) IN GENERAL.—Subject to paragraph (3), an amount that would be apportioned under this section (except subsection (c)(2)) in a fiscal year to the sponsor of an airport having at least .25 percent of the total number of boardings each year in the United States and for which a fee is imposed in the fiscal year under section 40117 of this title shall be reduced by an amount equal to—

(A) in the case of a fee of $3.00 or less, 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section; and

(B) in the case of a fee of more than $3.00, 75 percent of the projected revenues from the fee in the fiscal year but not by more than 75 percent of the amount that otherwise would be apportioned under this section.

(2) EFFECTIVE DATE OF REDUCTION.—A reduction in an apportionment required by paragraph (1) shall not take effect until the first fiscal year following the year in which the collection of the fee imposed under section 40117 is begun.

(3) SPECIAL RULE FOR TRANSITIONING AIRPORTS.—

(A) IN GENERAL.—Beginning with the fiscal year following the first calendar year in which the sponsor of an airport has more than .25 percent of the total number of boardings in the United States, the sum of the amount that would be apportioned under this section after application of paragraph (1) in a fiscal year to such sponsor and the projected revenues to be derived from the fee in such fiscal year shall not be less than the sum of the apportionment to such airport for the preceding fiscal year and the revenues derived from such fee in the preceding fiscal year.

(B) EFFECTIVE PERIOD.—Subparagraph (A) shall be in effect for fiscal year 2004.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1268; Pub. L. 103–429, § 6(66), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 104–264, title I, § 121, Oct. 9, 1996, 110 Stat. 3217; Pub. L. 106–181, title I, §§ 104(a)–(d), 105(c), Apr. 5, 2000, 114 Stat. 67–71; Pub. L. 108–176, title I, §§ 146, 147, Dec. 12, 2003, 117 Stat. 2504; Pub. L. 109–115, div. A, title I, § 109, Nov. 30, 2005, 119 Stat. 2402.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47114(a), (b)	49 App.:2206(a) (words before cl. (1)).	Sept. 3, 1982, Pub. L. 97–248, § 507(a)(1), (3), (b)(2), (4)–(5)(C), (E), (6), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1494, 1496.
47114(c)(1)(A).	49 App.:2206(a)(1).	
	49 App.:2206(e)(1).	Sept. 3, 1982, Pub. L. 97–248, § 507(e), (f), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1497; Nov. 5, 1990, Pub. L. 101–508, § 9112(b), 104 Stat. 1388–362.
47114(c)(1)(B).	49 App.:2206(b)(1).	Sept. 3, 1982, Pub. L. 97–248, § 507(a)(2), (b)(1), (3), (5)(F), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1494, 1496; Oct. 31, 1992, Pub. L. 102–581, § 106, 106 Stat. 4878.
47114(c)(2) ..	49 App.:2206(a)(2), (b)(4), (e)(2).	
47114(c)(3) ..	49 App.:2206(b)(2), (3).	
47114(d)(1) ..	49 App.:2206(f).	
47114(d)(2) ..	49 App.:2206(a)(3).	
47114(d)(3) ..	49 App.:2206(b)(6).	
47114(e)	49 App.:2206(b)(5)(A)–(C), (E), (F).	
47114(f)	49 App.:2206(b)(7).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 507(b)(7); added Nov. 5, 1990, Pub. L. 101–508, § 9111, 104 Stat. 1388–362.

In subsection (a), the word ''newly'' is substituted for ''and not previously apportioned'' for clarity. The words ''made available'' are substituted for ''authorized to be obligated'' for clarity and consistency.

In subsection (c)(1)(A), the words ''during the prior calendar year'' are substituted for 49 App.:2206(b) for clarity.

In subsection (c)(2)(A), the word ''cargo'' is substituted for ''property (including mail)'' for consistency in the revised title.

In subsection (c)(3), the words ''The total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for a fiscal year'' are substituted for 49 App.:2206(b)(2)(A) and (3)(A) for clarity and to eliminate unnecessary words. The words ''If this paragraph requires reduction of an amount that otherwise would be apportioned under this subsection'' are substituted for ''In any case in which apportionments in a fiscal year would be reduced by subparagraph (A)'' for clarity.

In subsection (d)(2)(A), the words ''the Commonwealth of'' are omitted as surplus.

In subsection (d)(2)(B) and (C), the words ''except as provided in paragraph (3) of this subsection'' are added, and the words ''49.5 percent of the apportioned amount'' are substituted for ''1/2 of the remaining 99 percent'', for clarity.

In subsection (d)(3), before clause (A), the words ''Notwithstanding subsection (a)(3)(B) of this section'' are omitted as surplus.

In subsection (e)(1), before clause (A), the words ''Instead of apportioning amounts for airports in Alaska under subsections (c) and (d) of this section'' are sub-

stituted for ''Notwithstanding any other provision of subsection (a) of this section'' for clarity.

In subsection (e)(2), the words ''be construed as'' are omitted as surplus.

In subsection (f), the words ''which, but for this paragraph, would be'' the first time they appear are omitted as surplus. The words ''but not by more than'' are substituted for ''The maximum reduction in an apportionment to a sponsor of an airport as a result of this paragraph in a fiscal year shall be'' to eliminate unnecessary words.

PUB. L. 103–429

Revision notes for 49:47114(c)(3)(A) are included to reflect changes made for clarity and to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1269).

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47114(c)(1)(B).	49 App.:2206(b)(1).	Sept. 3, 1982, Pub. L. 97–248, §507(b)(1), as amended May 26, 1994, Pub. L. 103–260, §103, 108 Stat. 698.
47114(c)(3)(B).	49 App.:2206(b)(3).	Sept. 3, 1982, Pub. L. 97–248, §507(b)(3), as amended May 26, 1994, Pub. L. 103–260, §102, 108 Stat. 698.

In subsection (c)(3)(A) and (B), the words ''If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection'' are substituted for ''In any case in which apportionments in a fiscal year would be reduced by subparagraph (A)'' for clarity.

In subsection (c)(3)(A), the words ''Except as provided in subparagraph (B) of this paragraph'' are added for clarity. The words ''the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year'' are substituted for 49 App.:2206(b)(2)(A), as in effect on July 4, 1994, for clarity and to eliminate unnecessary words.

In subsection (c)(3)(B), the words ''the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year'' are substituted for 49 App.:2206(b)(3)(A), as in effect on July 4, 1994, for clarity and to eliminate unnecessary words.

REFERENCES IN TEXT

Section 15(a) of the Airport and Airway Development Act of 1970, referred to in subsec. (e)(1), is section 15(a) of Pub. L. 91–258, which was classified to section 1715(a) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

2005—Subsec. (c)(1)(G). Pub. L. 109–115 added subpar. (G).

2003—Subsec. (c)(1)(F). Pub. L. 108–176, §146(a), added subpar. (F).

Subsec. (c)(2). Pub. L. 108–176, §147(1), struck out ''ONLY'' after ''CARGO'' in heading.

Subsec. (c)(2)(A). Pub. L. 108–176, §147(2), substituted ''3.5 percent'' for ''3 percent''.

Subsec. (f)(3). Pub. L. 108–176, §146(b)(1), substituted ''AIRPORTS'' for ''AIRORTS'' in heading.

Subsec. (f)(3)(B). Pub. L. 108–176, §146(b)(2), substituted ''fiscal year 2004'' for ''fiscal years 2000 through 2003''.

2000—Subsec. (c)(1). Pub. L. 106–181, §104(a)(2)(A), (C), inserted headings for par. (1) and subpar. (A) and realigned margins.

Subsec. (c)(1)(B). Pub. L. 106–181, §104(a)(1)(A), (2)(B), (C), inserted heading, substituted ''$650,000'' for ''$500,000'', and realigned margins.

Subsec. (c)(1)(C) to (E). Pub. L. 106–181, §104(a)(1)(B), added subpars. (C) to (E).

Subsec. (c)(2)(A). Pub. L. 106–181, §104(b)(1), substituted ''3 percent'' for ''2.5 percent''.

Subsec. (c)(2)(C). Pub. L. 106–181, §104(b)(2), substituted ''In any fiscal year in which the total amount made available under section 48103 is less than $3,200,000,000, not more than'' for ''Not more than''.

Subsec. (d). Pub. L. 106–181, §104(c), amended heading and text of subsec. (d) generally, revising and restating as pars. (1) to (6) provisions formerly contained in pars. (1) to (3).

Subsec. (e). Pub. L. 106–181, §104(d)(1), substituted ''Supplemental'' for ''Alternative'' in heading.

Subsec. (e)(1). Pub. L. 106–181, §104(d)(2), (5), inserted heading, realigned margins, and in introductory provisions substituted ''Notwithstanding'' for ''Instead of apportioning amounts for airports in Alaska under'' and ''airports in Alaska'' for ''those airports''.

Subsec. (e)(2). Pub. L. 106–181, §104(d)(3), (5), inserted heading and realigned margins.

Subsec. (e)(3), (4). Pub. L. 106–181, §104(d)(4), added pars. (3) and (4) and struck out former par. (3) which read as follows: ''Airports referred to in this subsection include those public airports that received scheduled service as of September 3, 1982, but were not apportioned amounts in the fiscal year ending September 30, 1980, under section 15(a) of the Act because the airports were not under the control of a State or local public agency.''

Subsec. (f). Pub. L. 106–181, §105(c), designated existing provisions as par. (1), inserted heading, realigned margins, substituted ''Subject to paragraph (3), an amount'' for ''An amount'' and ''an amount equal to—'' and subpars. (A) and (B) for ''an amount equal to 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section.'', and added pars. (2) and (3).

1996—Subsec. (c)(1)(A)(iv). Pub. L. 104–264, §121(a)(1)(B), substituted ''of the next 500,000 passenger boardings'' for ''additional passenger boarding''.

Subsec. (c)(1)(A)(v). Pub. L. 104–264, §121(a)(1)(A), (C), (D), added cl. (v).

Subsec. (c)(2). Pub. L. 104–264, §121(a)(2)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(2)(A) The Secretary shall apportion to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds for each fiscal year an amount equal to 3.5 percent of the amount subject to apportionment each year, allocated among those airports in the proportion that the total annual landed weight of those aircraft landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports. However, not more than 8 percent of the amount apportioned under this paragraph may be apportioned for any one airport.

''(B) Landed weight under subparagraph (A) of this paragraph is the landed weight of aircraft landing at each of those airports and all those airports during the prior calendar year.''

Subsec. (c)(3). Pub. L. 104–264, §121(a)(3), struck out par. (3) which read as follows:

''(3)(A) Except as provided in subparagraph (B) of this paragraph, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 49.5 percent limit is achieved.

''(B) If a law limits the amount subject to apportionment to less than $1,900,000,000 for a fiscal year, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an air-

port under paragraphs (1) and (2) until the 44 percent limit is achieved.''

Subsec. (d)(2). Pub. L. 104–264, § 121(b)(1), substituted ''18.5'' for ''12'' in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 104–264, § 121(b)(2), substituted ''0.66'' for ''one''.

Subsec. (d)(2)(B), (C). Pub. L. 104–264, § 121(b)(3), (4), substituted ''49.67'' for ''49.5'' and ''excluding primary airports but including reliever and nonprimary commercial service airports,'' for ''except primary airports and airports described in section 47117(e)(1)(C) of this title,''.

1994—Subsec. (c)(1)(B). Pub. L. 103–429, § 6(66)(A), substituted ''$500,000'' for ''$400,000''.

Subsec. (c)(3). Pub. L. 103–429, § 6(66)(B), designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B) of this paragraph, the'' for ''The'', ''49.5'' for ''44'' in two places, and ''If this subparagraph'' for ''If this paragraph'', and added subpar. (B).

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

Section 125 of title I of Pub. L. 104–264, which provided that the amendments made by subtitle B (§§ 121–125) of title I of Pub. L. 104–264, amending this section and sections 47115, 47117, and 47118 of this title, were to cease to be effective on Sept. 30, 1998, and that on and after such date, sections 47114, 47115, 47117, and 47118 of this title were to read as if such amendments had not been enacted, was repealed by Pub. L. 105–277, div. C, title I, § 110(a), Oct. 21, 1998, 112 Stat. 2681–587, effective Sept. 29, 1998.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 6(66)(B) of Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

APPORTIONED FUNDS

Pub. L. 107–71, title I, § 119(b), Nov. 19, 2001, 115 Stat. 629, provided that: ''For the purpose of carrying out section 47114 of title 49, United States Code, for fiscal year 2003, the Secretary shall use, in lieu of passenger boardings at an airport during the prior calendar year, the greater of—

''(1) the number of passenger boardings at that airport during 2000; or

''(2) the number of passenger boardings at that airport during 2001.''

[For definition of ''airport'' used in section 119(b) of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.]

§ 47115. Discretionary fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a discretionary fund. The fund consists of—

(1) amounts subject to apportionment for a fiscal year that are not apportioned under section 47114(c)–(e) of this title; and

(2) 12.5 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) AVAILABILITY OF AMOUNTS.—Subject to subsection (c) of this section and section 47117(e) of this title, the fund is available for making grants for any purpose for which amounts are made available under section 48103 of this title that the Secretary considers most appropriate to carry out this subchapter.

(c) MINIMUM PERCENTAGE FOR PRIMARY AND RELIEVER AIRPORTS.—At least 75 percent of the amount in the fund and distributed by the Secretary in a fiscal year shall be used for making grants—

(1) to preserve and enhance capacity, safety, and security at primary and reliever airports; and

(2) to carry out airport noise compatibility planning and programs at primary and reliever airports.

(d) CONSIDERATIONS.—

(1) FOR CAPACITY ENHANCEMENT PROJECTS.—In selecting a project for a grant to preserve and improve capacity funded in whole or in part from the fund, the Secretary shall consider—

(A) the effect that the project will have on overall national transportation system capacity;

(B) the benefit and cost of the project, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

(C) the financial commitment from non-United States Government sources to preserve or improve airport capacity;

(D) the airport improvement priorities of the States to the extent such priorities are not in conflict with subparagraphs (A) and (B);

(E) the projected growth in the number of passengers or aircraft that will be using the airport at which the project will be carried out; and

(F) the ability of the project to foster United States competitiveness in securing global air cargo activity at a United States airport.

(2) FOR ALL PROJECTS.—In selecting a project for a grant under this section, the Secretary shall consider among other factors whether—

(A) funding has been provided for all other projects qualifying for funding during the fiscal year under this chapter that have attained a higher score under the numerical priority system employed by the Secretary in administering the fund; and

(B) the sponsor will be able to commence the work identified in the project applica-

tion in the fiscal year in which the grant is made or within 6 months after the grant is made, whichever is later.

(e) WAIVING PERCENTAGE REQUIREMENT.—If the Secretary decides the Secretary cannot comply with the percentage requirement of subsection (c) of this section in a fiscal year because there are insufficient qualified grant applications to meet that percentage, the amount the Secretary determines will not be distributed as required by subsection (c) is available for obligation during the fiscal year without regard to the requirement.

(f) CONSIDERATION OF DIVERSION OF REVENUES IN AWARDING DISCRETIONARY GRANTS.—

(1) GENERAL RULE.—Subject to paragraph (2), in deciding whether or not to distribute funds to an airport from the discretionary funds established by subsection (a) of this section and section 47116 of this title, the Secretary shall consider as a factor militating against the distribution of such funds to the airport the fact that the airport is using revenues generated by the airport or by local taxes on aviation fuel for purposes other than capital or operating costs of the airport or the local airports system or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property.

(2) REQUIRED FINDING.—Paragraph (1) shall apply only when the Secretary finds that the amount of revenues used by the airport for purposes other than capital or operating costs in the airport's fiscal year preceding the date of the application for discretionary funds exceeds the amount of such revenues in the airport's first fiscal year ending after August 23, 1994, adjusted by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(g) MINIMUM AMOUNT TO BE CREDITED.—

(1) GENERAL RULE.—In a fiscal year, there shall be credited to the fund, out of amounts made available under section 48103 of this title, an amount that is at least equal to the sum of—

(A) $148,000,000; plus

(B) the total amount required from the fund to carry out in the fiscal year letters of intent issued before January 1, 1996, under section 47110(e) of this title or the Airport and Airway Improvement Act of 1982.

The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

(2) REDUCTION OF APPORTIONMENTS.—In a fiscal year in which the amount credited under subsection (a) is less than the minimum amount to be credited under paragraph (1), the total amount calculated under paragraph (3) shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals such minimum amount.

(3) AMOUNT OF REDUCTION.—For a fiscal year, the total amount available to make a reduction to carry out paragraph (2) is the total of the amounts determined under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.

(h) PRIORITY FOR LETTERS OF INTENT.—In making grants in a fiscal year with funds made available under this section, the Secretary shall fulfill intentions to obligate under section 47110(e).

(i) CONSIDERATIONS FOR PROJECT UNDER EXPANDED SECURITY ELIGIBILITY.—In order to assure that funding under this subchapter is provided to the greatest needs, the Secretary, in selecting a project described in section 47102(3)(J)[1] for a grant, shall consider the non-federal[2] resources available to sponsor, the use of such non-federal[2] resources, and the degree to which the sponsor is providing increased funding for the project.

(j) MARSHALL ISLANDS, MICRONESIA, AND PALAU.—For fiscal years 2004 through 2007, the sponsors of airports located in the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau shall be eligible for grants under this section and section 47116.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1270; Pub. L. 103–305, title I, § 112(d), Aug. 23, 1994, 108 Stat. 1576; Pub. L. 103–429, § 6(67), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 104–264, title I, §§ 122, 145, Oct. 9, 1996, 110 Stat. 3218, 3222; Pub. L. 104–287, § 5(81), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 106–6, §§ 5, 8(a), Mar. 31, 1999, 113 Stat. 10, 11; Pub. L. 107–71, title I, § 119(a)(3), Nov. 19, 2001, 115 Stat. 628; Pub. L. 108–176, title I, §§ 148, 188, Dec. 12, 2003, 117 Stat. 2504, 2519.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47115(a)	49 App.:2206(c)(1) (1st, 2d sentences).	Sept. 3, 1982, Pub. L. 97–248, § 507(c), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1496; Nov. 5, 1990, Pub. L. 101–508, § 9112(a), 104 Stat. 1388–362.
47115(b)	49 App.:2206(c)(1) (3d, last sentences).	
47115(c)	49 App.:2206(c)(2).	
47115(d)	49 App.:2206(c)(3).	
47115(e)	49 App.:2206(c)(4).	

In subsection (a), before clause (1), the words ''The Secretary of Transportation has a discretionary fund'' are added for clarity. In clause (1), the words ''subject to apportionment for a fiscal year'' are substituted for ''which are made available for a fiscal year under section 2204 of this Appendix'' and ''which have not been previously apportioned by the Secretary'' for consistency with section 47114 of the revised title.

In subsection (c), before clause (1), the words ''Subject to section 2207(d) of this Appendix and paragraph (4) of this subsection'' and ''pursuant to paragraph (1) and distributed by the Secretary under this subsection in a fiscal year beginning after September 30, 1987'' are omitted as surplus.

In subsection (d), before clause (1), the words ''at airports'' are omitted as surplus. In clause (3), the words ''airport operator or other'' are omitted as surplus.

[1] See References in Text note below.

[2] So in original. Probably should be ''non-Federal''.

In subsection (e), the words ''submitted in compliance with this chapter'' and ''portion of'' are omitted as surplus.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47115(f)	49 App.:2206(c)(5).	Sept. 3, 1982, Pub. L. 97–248, § 507(c)(5), as added May 26, 1994, Pub. L. 103–260, § 104(a), 108 Stat. 698.
	49 App.:2206 (note).	May 26, 1994, Pub. L. 103–260, § 104(b), 108 Stat. 699.

In subsection (f), the text of section 104(b) of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 699) is omitted as executed.

PUB. L. 104–287, § 5(81)(A)

This sets out the date of enactment of 49:47115(f), as enacted by section 112(d) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1576).

PUB. L. 104–287, § 5(81)(B)

This redesignates 49:47115(f), as enacted by section 6(67) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4386), as 49:47115(g).

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (g)(1)(B), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, as amended, which was classified principally to chapter 31 (§ 2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

Section 47102(3)(J), referred to in subsec. (i), was repealed and subpar. (M) was redesignated (J) by Pub. L. 108–176, title I, § 159(b)(1)(A), Dec. 12, 2003, 117 Stat. 2510.

AMENDMENTS

2003—Subsec. (d). Pub. L. 108–176, § 148, amended subsec. (d) generally. Prior to amendment, subsec. (d) listed six things the Secretary was required to consider in selecting a project for a grant to preserve and enhance capacity as described in subsection (c)(1) of this section.

Subsec. (j). Pub. L. 108–176, § 188, added subsec. (j).

2001—Subsec. (i). Pub. L. 107–71 added subsec. (i).

1999—Subsec. (a)(2). Pub. L. 106–6, § 8(a)(1), substituted ''12.5'' for ''25''.

Subsec. (b). Pub. L. 106–6, § 8(a)(2), struck out at end ''However, 50 percent of amounts not apportioned under section 47114 of this title because of section 47114(f) and added to the fund is available for making grants for projects at small hub airports (as defined in section 41731 of this title).''

Subsec. (g)(4). Pub. L. 106–6, § 5, which directed the amendment of section 47115(g) by striking paragraph (4), without specifying the Code title to be amended, was executed by striking heading and text of par. (4) of subsec. (g) of this section, to reflect the probable intent of Congress. Text read as follows: ''For a fiscal year in which the amount credited to the fund under this subsection exceeds $300,000,000, the Secretary shall allocate the amount of such excess as follows:

''(A) ⅓ shall be made available to airports for which apportionments are made under section 47114(d) of this title.

''(B) ⅓ shall be made available for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title.

''(C) ⅓ shall be made available to current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title.''

1996—Subsec. (d)(2). Pub. L. 104–264, § 145(a)(1), substituted '', including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;'' for ''; and''.

Subsec. (d)(4) to (6). Pub. L. 104–264, § 145(a)(2), (3), added pars. (4) to (6).

Subsec. (f). Pub. L. 104–287, § 5(81)(B), which directed that subsec. (f), as enacted by Pub. L. 103–429, be redesignated (g), could not be executed because of amendment by Pub. L. 104–264, § 122, which struck out that subsec. See below.

Pub. L. 104–264, § 122, struck out subsec. (f), relating to minimum amount to be credited, which read as follows:

''(f) MINIMUM AMOUNT TO BE CREDITED.—(1) In a fiscal year, at least $325,000,000 of the amount made available under section 48103 of this title shall be credited to the fund. The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

''(2) In a fiscal year in which the amount credited under subsection (a) of this section is less than $325,000,000, the total amount calculated under paragraph (3) of this subsection shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals $325,000,000.

''(3) For a fiscal year, the total amount available to reduce to carry out paragraph (2) of this subsection is the total of the amounts determined under sections 47114(c)(1)(A) and (2) and (d) and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.''

Subsec. (f)(2). Pub. L. 104–287, § 5(81)(A), substituted ''August 23, 1994'' for ''the date of the enactment of this subsection''.

Subsec. (g). Pub. L. 104–264, § 122, added subsec. (g).

Subsec. (h). Pub. L. 104–264, § 145(b), added subsec. (h).

1994—Subsec. (f). Pub. L. 103–429 added subsec. (f) relating to minimum amount to be credited.

Pub. L. 103–305 added subsec. (f) relating to consideration of diversion of revenues in awarding discretionary grants.

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 1996 AMENDMENTS

Amendment by section 5(81)(B) of Pub. L. 104–287 effective Sept. 30, 1998, see section 8(2) of Pub. L. 104–287, as amended, set out as a note under section 47117 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 47116. Small airport fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a small airport fund. The fund consists of 87.5 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) DISTRIBUTION OF AMOUNTS.—The Secretary may distribute amounts in the fund in each fiscal year for any purpose for which amounts are made available under section 48103 of this title as follows:

(1) one-seventh for grants for projects at small hub airports; and

(2) the remaining amounts based on the following:

(A) one-third for grants to sponsors of public-use airports (except commercial service airports).

(B) two-thirds for grants to sponsors of each commercial service airport that each year has less than .05 percent of the total boardings in the United States in that year.

(c) AUTHORITY TO RECEIVE GRANT NOT DEPENDENT ON PARTICIPATION IN BLOCK GRANT PILOT PROGRAM.—An airport in a State participating in the State block grant pilot program under section 47128 of this title may receive a grant under this section to the same extent the airport may receive a grant if the State were not participating in the program.

(d) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—

(1) CONSTRUCTION OF NEW RUNWAYS.—In making grants to sponsors described in subsection (b)(2), the Secretary shall give priority consideration to multi-year projects for construction of new runways that the Secretary finds are cost beneficial and would increase capacity in a region of the United States.

(2) AIRPORT DEVELOPMENT FOR TURBINE POWERED AIRCRAFT.—In making grants to sponsors described in subsection (b)(1), the Secretary shall give priority consideration to airport development projects to support operations by turbine powered aircraft if the non-Federal share of the project is at least 40 percent.

(e) SET-ASIDE FOR MEETING SAFETY TERMS IN AIRPORT OPERATING CERTIFICATES.—In the first fiscal year beginning after the effective date of regulations issued to carry out section 44706(b) with respect to airports described in section 44706(a)(2), and in each of the next 4 fiscal years, the lesser of $15,000,000 or 20 percent of the amounts that would otherwise be distributed to sponsors of airports under subsection (b)(2) shall be used to assist the airports in meeting the terms established by the regulations. If the Secretary publishes in the Federal Register a finding that all the terms established by the regulations have been met, this subsection shall cease to be effective as of the date of such publication.

(f) NOTIFICATION OF SOURCE OF GRANT.—Whenever the Secretary makes a grant under this section, the Secretary shall notify the recipient of the grant, in writing, that the source of the grant is from the small airport fund.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1271; Pub. L. 104–264, title I, § 146, Oct. 9, 1996, 110 Stat. 3223; Pub. L. 106–6, § 8(b), Mar. 31, 1999, 113 Stat. 11; Pub. L. 106–181, title I, § 128, Apr. 5, 2000, 114 Stat. 76; Pub. L. 108–176, title VIII, § 801(b), Dec. 12, 2003, 117 Stat. 2587.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47116(a)	49 App.:2206(d)(1) (words before "to be distributed").	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 507(d); added Nov. 5, 1990, Pub. L. 101–508, § 9112(b), 104 Stat. 1388–362.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47116(b)	49 App.:2206(d)(1) (words after "small airport fund"), (2), (3).	
47116(c)	49 App.:2206(d)(4).	

In subsection (a), the words "The Secretary of Transportation has a small airport fund" are added for clarity.

In subsection (b), before clause (1), the words "under this subsection" are omitted as surplus. In clauses (1) and (2), the words "used" and "making" are omitted as surplus.

In subsection (c), the word "pilot" is added for consistency with section 47128 of the revised title.

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108–176 struck out "(as defined in section 41731 of this title)" after "small hub airports".

2000—Subsec. (d). Pub. L. 106–181, § 128(c), designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

Subsec. (e). Pub. L. 106–181, § 128(a), added subsec. (e).

Subsec. (f). Pub. L. 106–181, § 128(b), added subsec. (f).

1999—Subsec. (a). Pub. L. 106–6, § 8(b)(1), substituted "87.5" for "75".

Subsec. (b). Pub. L. 106–6, § 8(b)(2), added pars. (1) and (2) and redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (2).

1996—Subsec. (d). Pub. L. 104–264 added subsec. (d).

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 47117. Use of apportioned amounts

(a) GRANT PURPOSE.—Except as provided in this section, an amount apportioned under section 47114(c)(1) or (d)(2) of this title is available for making grants for any purpose for which amounts are made available under section 48103 of this title.

(b) PERIOD OF AVAILABILITY.—An amount apportioned under section 47114 of this title is available to be obligated for grants under the apportionment only during the fiscal year for which the amount was apportioned and the 2 fiscal years immediately after that year or the 3 fiscal years immediately following that year in the case of a nonhub airport or any airport that is not a commercial service airport. If the amount is not obligated under the apportionment within that time, it shall be added to the discretionary fund.

(c) PRIMARY AIRPORTS.—(1) An amount apportioned to a sponsor of a primary airport under

section 47114(c)(1) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

(2) WAIVER.—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under sections 47114(c) and 47114(d)(3)(A) if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.

(d) STATE USE.—An amount apportioned to a State under—

(1) section 47114(d)(2)(A) of this title is available for grants for airports located in the State; and

(2) section 47114(d)(2)(B) or (C) of this title is available for grants for airports described in section 47114(d)(2)(B) or (C) and located in the State.

(e) SPECIAL APPORTIONMENT CATEGORIES.—(1) The Secretary shall use amounts available to the discretionary fund under section 47115 of this title for each fiscal year as follows:

(A) At least 35 percent for grants for airport noise compatibility planning under section 47505(a)(2), for carrying out noise compatibility programs under section 47504(c), for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, and for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.). The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 35 percent requirement is being met in that fiscal year.

(B) at[1] least 4 percent to sponsors of current or former military airports designated by the Secretary under section 47118(a) of this title for grants for developing current and former military airports to improve the capacity of the national air transportation system and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant.

(C) In any fiscal year in which the total amount made available under section 48103 is $3,200,000,000 or more, at least two-thirds of 1 percent for grants to sponsors of reliever airports which have—

(i) more than 75,000 annual operations;

(ii) a runway with a minimum usable landing distance of 5,000 feet;

(iii) a precision instrument landing procedure;

(iv) a minimum number of aircraft, to be determined by the Secretary, based at the airport; and

(v) been designated by the Secretary as a reliever airport to an airport with 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.

(2) If the Secretary decides that an amount required to be used for grants under paragraph (1) of this subsection cannot be used for a fiscal year because there are insufficient qualified grant applications, the amount the Secretary determines cannot be used is available during the fiscal year for grants for other airports or for other purposes for which amounts are authorized for grants under section 48103 of this title.

(3) PRIORITY.—The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around—

(A) Chicago O'Hare International Airport;

(B) LaGuardia Airport;

(C) John F. Kennedy International Airport; and

(D) Ronald Reagan Washington National Airport.

(f) DISCRETIONARY USE OF APPORTIONMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary finds that all or part of an amount of an apportionment under section 47114 is not required during a fiscal year to fund a grant for which the apportionment may be used, the Secretary may use during such fiscal year the amount not so required to make grants for any purpose for which grants may be made under section 48103. The finding may be based on the notifications that the Secretary receives under section 47105(f) or on other information received from airport sponsors.

(2) RESTORATION OF APPORTIONMENTS.—

(A) IN GENERAL.—If the fiscal year for which a finding is made under paragraph (1) with respect to an apportionment is not the last fiscal year of availability of the apportionment under subsection (b), the Secretary shall restore to the apportionment an amount equal to the amount of the apportionment used under paragraph (1) for a discretionary grant whenever a sufficient amount is made available under section 48103.

(B) PERIOD OF AVAILABILITY.—If restoration under this paragraph is made in the fiscal year for which the finding is made or the succeeding fiscal year, the amount restored shall be subject to the original period of availability of the apportionment under subsection (b). If the restoration is made thereafter, the amount restored shall remain available in accordance with subsection (b) for the original period of availability of the apportionment plus the number of fiscal years during which a sufficient amount was not available for the restoration.

[1] So in original. Probably should be capitalized.

(3) NEWLY AVAILABLE AMOUNTS.—

(A) RESTORED AMOUNTS TO BE UNAVAILABLE FOR DISCRETIONARY GRANTS.—Of an amount newly available under section 48103 of this title, an amount equal to the amounts restored under paragraph (2) shall not be available for discretionary grant obligations under section 47115.

(B) USE OF REMAINING AMOUNTS.—Subparagraph (A) does not impair the Secretary's authority under paragraph (1), after a restoration under paragraph (2), to apply all or part of a restored amount that is not required to fund a grant under an apportionment to fund discretionary grants.

(4) LIMITATIONS ON OBLIGATIONS APPLY.—Nothing in this subsection shall be construed to authorize the Secretary to incur grant obligations under section 47104 for a fiscal year in an amount greater than the amount made available under section 48103 for such obligations for such fiscal year.

(g) LIMITING AUTHORITY OF SECRETARY.—The authority of the Secretary to make grants during a fiscal year from amounts that were apportioned for a prior fiscal year and remain available for approved airport development project grants under subsection (b) of this section may be impaired only by a law enacted after September 3, 1982, that expressly limits that authority.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1271; Pub. L. 103–305, title I, §116(a), Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, §6(68), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 104–264, title I, §§123, 124(d), Oct. 9, 1996, 110 Stat. 3219, 3220; Pub. L. 104–287, §5(82), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 105–102, §3(c)(1), (2), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106–6, §7, Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–31, title VI, §6002(d), May 21, 1999, 113 Stat. 113; Pub. L. 106–181, title I, §§104(e)–(g), 129, title II, §231(f), Apr. 5, 2000, 114 Stat. 70, 77, 114; Pub. L. 108–176, title I, §§149(c), 150, 151, Dec. 12, 2003, 117 Stat. 2505, 2506.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47117(a)	49 App.:2207(b)(1) (related to purposes for which funds may be used).	Sept. 3, 1982, Pub. L. 97–248, §§506(e)(4), 508(b), 96 Stat. 679, 681.
	49 App.:2207(c) (1st sentence related to purposes for which funds are available).	Sept. 3, 1982, Pub. L. 97–248, §508(c), 96 Stat. 682; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(C), 101 Stat. 1498.
47117(b)	49 App.:2207(a).	Sept. 3, 1982, Pub. L. 97–248, §508(a), 96 Stat. 681; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(A), (B), 101 Stat. 1497.
47117(c)(1) ..	49 App.:2207(b)(1) (related to airports at which funds may be used).	
47117(c)(2) ..	49 App.:2207(b)(2).	
47117(d)	49 App.:2207(c) (1st sentence related to airports at which funds are available, last sentence).	
47117(e)	49 App.:2202(a)(11).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(11), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:2207(d).	Sept. 3, 1982, Pub. L. 97–248, §508(d), 96 Stat. 682; Dec. 30, 1987, Pub. L. 100–223, §§106(b)(2)(D), 107, 101 Stat. 1498; Nov. 5, 1990, Pub. L. 101–508, §9109(b), 104 Stat. 1388–356; Oct. 31, 1992, Pub. L. 102–581, §§107(a), 108, 106 Stat. 4878, 4879.
47117(f)	49 App.:2206(b)(5)(D).	Sept. 3, 1982, Pub. L. 97–248, §507(b)(5)(D), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, §426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, §106(a), 101 Stat. 1496.
47117(g)	49 App.:2207(e)(1).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(e)(1); added Oct. 2, 1982, Pub. L. 97–276, §167, 96 Stat. 1204; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(E), 101 Stat. 1498.
	49 App.:2207(e)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(e)(2); added Oct. 2, 1982, Pub. L. 97–276, §167, 96 Stat. 1205.
47117(h)	49 App.:2205(e)(4).	

In subsection (b), the words ''for grants'' are added, and the word ''apportioned'' is substituted for ''first authorized to be obligated'', for clarity. The words ''established by section 2206(c) of this Appendix'' are omitted as surplus.

In subsection (c)(2), the word ''if'' is substituted for ''on the condition that'' to eliminate unnecessary words. The word ''in'' is substituted for ''which is a part of'' for clarity.

Subsection (d) is substituted for 49 App.:2207(c) (1st sentence related to airports at which funds are available) for clarity. The text of 49 App.:2207(c) (last sentence) is omitted as surplus because of section 47105(a) of the revised title.

In subsection (e)(1), the words ''The Secretary shall use . . . (A) . . . for grants . . . (B) . . . for grants . . . (C) . . . for grants . . . (D) . . . for . . . grants . . . (E) . . . for grants'' are substituted for ''shall be distributed'' and ''shall be obligated'' for clarity and consistency in the revised title. Clause (C)(ii) is substituted for 49 App.:2207(d)(3)(B) and (C) to eliminate unnecessary words. In clause (E), the references to fiscal years 1991 and 1992 are omitted as obsolete.

In subsection (e)(2), the words ''for each fiscal year'' are omitted as surplus.

In subsection (e)(3), the words ''an amount required to be used for grants under paragraph (1) of this subsection cannot be used'' are substituted for ''he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection'' for consistency. The words ''submitted in compliance with this chapter'' are omitted as surplus. The words ''cannot be used'' are substituted for ''will not be distributed'' for consistency. The words ''for which amounts are'' are added for clarity and consistency in this chapter.

Subsection (f) is substituted for 49 App.:2206(b)(5)(D) for clarity and consistency in the revised title.

In subsection (g)(1), the words ''and (3)'' are omitted because 49 App.:2207(e)(3) has expired. The words ''at his discretion'' are omitted as surplus.

In subsection (g)(2)(A), the words ''made available'' are substituted for ''authorized'' for clarity.

In subsection (h), the words ''to make grants'' are substituted for ''to obligate to an airport by grant agreement'' for consistency in the revised title and to eliminate unnecessary words. The words ''the unobligated balance of'' are omitted as surplus. The words ''limits that authority'' are substituted for ''limits the application of this paragraph'' for clarity. The words ''in addition to the amounts authorized for that fiscal

year by section 2204 of this Appendix'' are omitted as surplus.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47117(e)	49 App.:2207(d).	Sept. 3, 1982, Pub. L. 97–248, § 508(d), as amended May 26, 1994, Pub. L. 103–260, § 105, 108 Stat. 699.

PUB. L. 104–287, § 5(82)(A)

This amends 49:47117(e)(1)(B) because of the redesignation of 49:47504(c)(1)(C) and (D) as 49:47504(c)(2)(C) and (D) by section 6(71)(C) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4387).

PUB. L. 104–287, § 5(82)(B)

This amends 49:47117(g)(1) because of the redesignation of 49:47105(e) as 49:47105(f) by section 107(a)(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1572).

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (e)(1)(A), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–176, § 150, substituted ''nonhub airport or any airport that is not a commercial service airport'' for ''primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year''.

Subsec. (c)(2). Pub. L. 108–176, § 149(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''A sponsor of a primary airport may make an agreement with the Secretary of Transportation waiving any part of the amount apportioned for the airport under section 47114(c)(1) of this title if the Secretary makes the waived amount available for a grant for another public-use airport in the same State or geographical area as the primary airport.''

Subsec. (e)(1)(A). Pub. L. 108–176, § 151, substituted ''At least 35 percent'' for ''At least 34 percent'', ''section 47505(a)(2),'' for ''section 47505(a)(2) of this title and'', '', for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, and for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.).'' for ''of this title.'', and ''35 percent requirement'' for ''34 percent requirement''.

2000—Subsec. (e)(1)(A). Pub. L. 106–181, § 104(e), substituted ''34 percent'' for ''31 percent'' in two places.

Subsec. (e)(1)(C). Pub. L. 106–181, § 104(f), added subpar. (C).

Subsec. (e)(3). Pub. L. 106–181, § 231(f), added par. (3).

Subsec. (f). Pub. L. 106–181, § 129, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

''(f) DISCRETIONARY USE OF APPORTIONMENTS.—(1) Subject to paragraph (2) of this subsection, if the Secretary finds, based on the notices the Secretary receives under section 47105(f) of this title or otherwise, that an amount apportioned under section 47114 of this title will not be used for grants during a fiscal year, the Secretary may use an equal amount for grants during that fiscal year for any of the purposes for which amounts are authorized for grants under section 48103 of this title.

''(2) The Secretary may make a grant under paragraph (1) of this subsection only if the Secretary decides that—

''(A) the total amount used for grants for the fiscal year under section 48103 of this title will not be more than the amount made available under section 48103 for that fiscal year; and

''(B) the amounts authorized for grants under section 48103 of this title for later fiscal years are sufficient for grants of the apportioned amounts that were not used for grants under the apportionment during the fiscal year and that remain available under subsection (b) of this section.''

Pub. L. 106–181, § 104(g), redesignated subsec. (g) as (f) and struck out heading and text of former subsec. (f). Text read as follows: ''The Secretary may not make a grant for a commercial service airport in Alaska of more than 110 percent of the amount apportioned for the airport for a fiscal year under section 47114(e) of this title.''

Subsecs. (g), (h). Pub. L. 106–181, § 104(g), redesignated subsecs. (g) and (h) as (f) and (g), respectively.

1999—Subsec. (e)(1)(B). Pub. L. 106–31 struck out ''for each of fiscal years 1997 and 1998'' after ''4 percent''.

Pub. L. 106–6 made amendment identical to that made by Pub. L. 105–102, § 3(c)(2). See 1997 Amendment note below.

1997—Subsec. (e)(1)(A). Pub. L. 105–102, § 3(c)(1)(B), added Pub. L. 104–264, § 123(d). See 1996 Amendment note below.

Subsec. (e)(1)(B). Pub. L. 105–102, § 3(c)(2), repealed Pub. L. 104–264, § 124(d). See 1996 Amendment note below.

Pub. L. 105–102, § 3(c)(1)(A), amended Pub. L. 104–264, § 123(b)(6). See 1996 Amendment note below.

1996—Subsec. (b). Pub. L. 104–264, § 123(a), inserted ''or the 3 fiscal years immediately following that year in the case of a primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year'' before period at end of first sentence.

Subsec. (e)(1). Pub. L. 104–264, § 123(b)(1), substituted ''available to the discretionary fund under section 47115'' for ''made available under section 48103'' in introductory provisions.

Subsec. (e)(1)(A). Pub. L. 104–264, § 123(d), as added by Pub. L. 105–102, § 3(c)(1)(B), substituted ''47504(c)'' for ''47504(c)(1)''.

Pub. L. 104–264, § 123(b)(4), (5), substituted ''At least 31'' for ''at least 12.5'' and inserted at end ''The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 31 percent requirement is being met in that fiscal year.''

Pub. L. 104–264, § 123(b)(2), (3), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: ''at least 5 percent for grants for reliever airports.''

Subsec. (e)(1)(B). Pub. L. 104–287, § 5(82)(A), which directed the amendment of subpar. (B) by substituting ''47504(c)'' for ''47504(c)(1)'', could not be executed because ''47504(c)(1)'' did not appear in text of subpar. (B) subsequent to amendment by Pub. L. 104–264. See below.

Pub. L. 104–264, § 124(d), which directed the amendment of subpar. (B) by substituting ''1996, 1997, and 1998'' for ''and 1996,'', was repealed by Pub. L. 105–102, § 3(c)(2).

Pub. L. 104–264, § 123(b)(6), as amended by Pub. L. 105–102, § 3(c)(1)(A), substituted ''at least 4 percent for each of fiscal years 1997 and 1998'' for ''at least 2.25 percent for the fiscal year ending September 30, 1993, and at least 2.5 percent for each of the fiscal years ending September 30, 1994, 1995, and 1996,''.

Pub. L. 104–264, § 123(b)(3), (7), redesignated subpar. (E) as (B) and inserted before period at end ''and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base,

and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant''. Former subpar. (B) redesignated (A).

Subsec. (e)(1)(C), (D). Pub. L. 104–264, §123(b)(2), struck out subpars. (C) and (D) which read as follows:

''(C) at least 1.5 percent for grants for—

''(i) nonprimary commercial service airports; and

''(ii) public airports (except commercial service airports) that were eligible for United States Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) or (II) of the Act applied during the fiscal year that ended September 30, 1981.

''(D) at least .75 percent for integrated airport system planning grants to planning agencies designated by the Secretary and authorized by the laws of a State or political subdivision of a State to do planning for an area of the State or subdivision in which a grant under this chapter is to be used.''

Subsec. (e)(1)(E). Pub. L. 104–264, §123(b)(3), redesignated subpar. (E) as (B).

Subsec. (e)(2), (3). Pub. L. 104–264, §123(c), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''A grant from the amount apportioned under section 47114(e) of this title may not be included as part of the 1.5 percent required to be used for grants under paragraph (1)(C) of this subsection.''

Subsec. (g)(1). Pub. L. 104–287, §5(82)(B), substituted ''47105(f)'' for ''47105(e)''.

1994—Subsec. (e)(1)(A). Pub. L. 103–429, §6(68)(A), substituted ''5 percent'' for ''10 percent''.

Subsec. (e)(1)(C). Pub. L. 103–429, §6(68)(B), substituted ''1.5 percent'' for ''2.5 percent'' in introductory provisions.

Subsec. (e)(1)(D). Pub. L. 103–429, §6(68)(C), substituted ''.75 percent'' for ''.5 percent''.

Subsec. (e)(1)(E). Pub. L. 103–305 substituted '', 1995, and 1996'' for '', and 1995''.

Subsec. (e)(2). Pub. L. 103–429, §6(68)(D), substituted ''1.5 percent'' for ''2.5 percent''.

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(c), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(c)(1)(B) is effective Oct. 9, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Section 8(2) of Pub. L. 104–287, as amended by Pub. L. 105–102, §3(d)(2)(B), Nov. 20, 1997, 111 Stat. 2215, provided that: ''The amendments made by section 5(81)(B), (82)(A), and (83)(A) [amending this section and sections 47115 and 47118 of this title] shall take effect on September 30, 1998.''

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 47118. Designating current and former military airports

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title. The maximum number of airports bearing such designation at any time is 15. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

(1) the airport is a former military installation closed or realigned under—

(A) section 2687 of title 10;

(B) section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); or

(C) section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); or

(2) the airport is a military installation with both military and civil aircraft operations.

(b) SURVEY.—Not later than September 30, 1991, the Secretary shall complete a survey of current and former military airports to identify which airports have the greatest potential to improve the capacity of the national air transportation system. The survey shall identify the capital development needs of those airports to make them part of the system and which of those qualify for grants under section 47104 of this title.

(c) CONSIDERATIONS.—In carrying out this section, the Secretary shall consider only current or former military airports for designation under this section if a grant under section 47117(e)(1)(B) would—

(1) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

(2) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.

(d) GRANTS.—Grants under section 47117(e)(1)(B) of this title may be made for an airport designated under subsection (a) of this section for the 5 fiscal years following the designation, and for subsequent periods, each not to exceed 5 fiscal years, if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent period.

(e) TERMINAL BUILDING FACILITIES.—From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004 and 2005, and $7,000,000 for each fiscal year thereafter, is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair a terminal building facility, including terminal gates used for revenue passengers getting on or off aircraft. A gate constructed, improved, or repaired under this subsection—

(1) may not be leased for more than 10 years; and

(2) is not subject to majority in interest clauses.

(f) PARKING LOTS, FUEL FARMS, UTILITIES, HANGARS, AND AIR CARGO TERMINALS.—

(1) CONSTRUCTION.—From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004

and 2005, and $7,000,000 for each fiscal year thereafter, is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair airport surface parking lots, fuel farms, utilities, and hangars and air cargo terminals of an area that is 50,000 square feet or less.

(2) REIMBURSEMENT.—Upon approval of the Secretary, the sponsor of a current or former military airport the Secretary designates under this section may use an amount apportioned under section 47114, or made available under section 47115 or 47117(e)(1)(B), to the airport for reimbursement of costs incurred by the airport in fiscal years 2003 and 2004 for construction, improvement, or repair described in paragraph (1).

(g) DESIGNATION OF GENERAL AVIATION AIRPORT.—Notwithstanding any other provision of this section, one of the airports bearing a designation under subsection (a) may be a general aviation airport that was a former military installation closed or realigned under a section referred to in subsection (a)(1).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1273; Pub. L. 103–305, title I, § 116(b)–(d), Aug. 23, 1994, 108 Stat. 1579; Pub. L. 104–264, title I, § 124(a)–(c), Oct. 9, 1996, 110 Stat. 3219, 3220; Pub. L. 104–287, § 5(83), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 106–181, title I, § 130, Apr. 5, 2000, 114 Stat. 78; Pub. L. 108–176, title I, § 153, Dec. 12, 2003, 117 Stat. 2507.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47118(a)	49 App.:2207(f)(1).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 508(f)(1); added Nov. 5, 1990, Pub. L. 101–508, § 9109(c), 104 Stat. 1388–356; Oct. 31, 1992, Pub. L. 102–581, § 107(b), 106 Stat. 4878.
47118(b)	49 App.:2207(f)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 508(f)(2)–(5); added Nov. 5, 1990, Pub. L. 101–508, § 9109(c), 104 Stat. 1388–356.
47118(c)	49 App.:2207(f)(3).	
47118(d)	49 App.:2207(f)(4).	
47118(e)	49 App.:2207(f)(5).	
47118(f)	49 App.:2207(f)(6).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 508(f)(6); added Oct. 31, 1992, Pub. L. 102–581, § 107(c)(1), 106 Stat. 4878.

In subsection (d), the word ''Grants'' is substituted for ''to participate in the program'', and the word ''grants'' is substituted for ''participation in the program'', for clarity and consistency and to eliminate unnecessary words.

In subsection (e), before clause (1), the words ''at the discretion'' and ''with Federal funding'' are omitted as surplus.

PUB. L. 104–287, § 5(83)(A)

This sets out the date of enactment of 49:47118(a) (last sentence).

PUB. L. 104–287, § 5(83)(B)

This makes a clarifying amendment to 49:47118(e) because 49:47109(c) was struck by section 114(b) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1579).

REFERENCES IN TEXT

Section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (a)(1)(B), is section 201 of Pub. L. 100–526, which is set out in a note under section 2687 of Title 10, Armed Forces.

Section 2905 of the Defense Base Closure and Realignment Act of 1990, referred to in subsec. (a)(1)(C), is section 2905 of Pub. L. 101–510, which is set out in a note under section 2687 of Title 10.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–176, § 153(1), substituted ''From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004 and 2005, and $7,000,000 for each fiscal year thereafter, is available'' for ''Not more than $7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available'' in introductory provisions.

Subsec. (f). Pub. L. 108–176, § 153(2), (3), inserted par. (1) designation and heading, substituted ''From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004 and 2005, and $7,000,000 for each fiscal year thereafter, is available'' for ''Not more than a total of $7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for fiscal years beginning after September 30, 1992, is available'', and added par. (2).

2000—Subsec. (a). Pub. L. 106–181, § 130(a)(1)(A), substituted ''15'' for ''12'' in introductory provisions.

Subsec. (a)(2). Pub. L. 106–181, § 130(a)(1)(B), added par. (2) and struck out former par. (2) which read as follows: ''the Secretary finds that such grants would—

''(A) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

''(B) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.''

Subsec. (c). Pub. L. 106–181, § 130(a)(2), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: ''In carrying out this section, the Secretary shall consider only current or former military airports that, when at least partly converted to civilian commercial or reliever airports as part of the national air transportation system, will enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.''

Subsec. (d). Pub. L. 106–181, § 130(a)(3), substituted ''47117(e)(1)(B)'' for ''47117(e)(1)(E)'', ''periods, each not to exceed 5 fiscal years,'' for ''5-fiscal-year periods'', and ''each such subsequent period'' for ''each such subsequent 5-fiscal-year period''.

Subsec. (e). Pub. L. 106–181, § 130(b), substituted ''$7,000,000'' for ''$5,000,000''.

Subsec. (f). Pub. L. 106–181, § 130(c), in heading, substituted ''Hangars, and Air Cargo Terminals'' for ''and Hangars'' and, in text, substituted ''$7,000,000'' for ''$4,000,000'' and inserted ''and air cargo terminals of an area that is 50,000 square feet or less'' before period at end.

Subsec. (g). Pub. L. 106–181, § 130(a)(4), added subsec. (g).

1996—Subsec. (a). Pub. L. 104–287, § 5(83)(A), which directed amendment of subsec. (a) by substituting ''before August 24, 1994'' for ''on or before the date of the enactment of this sentence'', could not be executed because the phrase to be amended did not appear subsequent to amendment by Pub. L. 104–264, § 124(a). See below.

Pub. L. 104–264, § 124(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate not more than 15 current or former military airports for which grants may be made under section 47117(e)(1)(E) of this title. The

Secretary may only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.''

Subsec. (d). Pub. L. 104–264, § 124(b), substituted ''designation, and for subsequent 5-fiscal-year periods if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent 5-fiscal-year period.'' for ''designation.''

Subsec. (e). Pub. L. 104–287, § 5(83)(B), substituted ''Not'' for ''Notwithstanding section 47109(c) of this title, not''.

Subsec. (f). Pub. L. 104–264, § 124(c), amended subsec. (f) by substituting ''Utilities, and Hangars'' for ''and Utilities'' in heading and ''for fiscal years beginning after September 30, 1992,'' for ''for the fiscal years ending September 30, 1993–1996,'' and ''utilities, and hangars'' for ''and utilities'' in text.

1994—Subsec. (a). Pub. L. 103–305, § 116(b), substituted ''15'' for ''12'' and inserted at end ''The Secretary may only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.''

Subsec. (d). Pub. L. 103–305, § 116(c), struck out at end ''If an airport does not have a level of passengers getting on aircraft during that 5-year period that qualifies the airport as a small hub airport (as defined on January 1, 1990) or reliever airport, the Secretary may redesignate the airport for grants for additional fiscal years that the Secretary decides.''

Subsec. (f). Pub. L. 103–305, § 116(d), substituted ''September 30, 1993–1996'' for ''September 30, 1993–1995''.

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 5(83)(A) of Pub. L. 104–287 effective Sept. 30, 1998, see section 8(2) of Pub. L. 104–287, as amended, set out as a note under section 47117 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 47119. Terminal development costs

(a) REPAYING BORROWED MONEY.—

(1) TERMINAL DEVELOPMENT COSTS INCURRED AFTER JUNE 30, 1970, AND BEFORE JULY 12, 1976.—An amount apportioned under section 47114 and made available to the sponsor of a commercial service airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d) if they had been incurred after September 3, 1982.

(2) TERMINAL DEVELOPMENT COSTS INCURRED BETWEEN JANUARY 1, 1992, AND OCTOBER 31, 1992.—An amount apportioned under section 47114 and made available to the sponsor of a nonhub airport at which terminal development was carried out between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

(3) TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

(A) that was a nonhub airport in the most recent year used to calculate apportionments under section 47114;

(B) that is a designated airport under section 47118 in fiscal year 2003; and

(C) at which terminal development is carried out between January 2003 and August 2004,

is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

(4) CONDITIONS FOR GRANT.—An amount is available for a grant under this subsection only if—

(A) the sponsor submits the certification required under section 47110(d);

(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 1 year beginning on the date the grant is used to repay the borrowed money.

(5) APPLICABILITY OF CERTAIN LIMITATIONS.—A grant under this subsection shall be subject to the limitations in subsection (b)(1) and (2).

(b) AVAILABILITY OF AMOUNTS.—In a fiscal year, the Secretary may make available—

(1) to a sponsor of a primary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(c)(1) of this title to pay project costs allowable under section 47110(d) of this title;

(2) on approval of the Secretary, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund established under section 47115 of this title—

(A) to a sponsor of a nonprimary commercial service airport to pay project costs allowable under section 47110(d) of this title; and

(B) to a sponsor of a reliever airport for the types of project costs allowable under section 47110(d), including project costs allowable for a commercial service airport that each year does not have more than .05 percent of the total boardings in the United States;

(3) for use by a primary airport that each year does not have more than .05 percent of the total boardings in the United States, any part of amounts that may be distributed for the fiscal year from the discretionary fund and small airport fund to pay project costs allowable under section 47110(d) of this title;

(4) not more than $25,000,000 to pay project costs allowable for the fiscal year under section 47110(d) of this title for projects at commercial service airports that were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970; or

(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under section 47110(d).

(c) NONHUB AIRPORTS.—With respect to a project at a commercial service airport which annually has less than 0.05 percent of the total enplanements in the United States, the Secretary may approve the use of the amounts described in subsection (a) notwithstanding the requirements of sections 47107(a)(17), 47112, and 47113.

(d) DETERMINATION OF PASSENGER BOARDING AT COMMERCIAL SERVICE AIRPORTS.—For the purpose of determining whether an amount may be distributed for a fiscal year from the discretionary fund in accordance with subsection (b)(2)(A) to a commercial service airport, the Secretary shall make the determination of whether or not a public airport is a commercial service airport on the basis of the number of passenger boardings and type of air service at the public airport in the calendar year that includes the first day of such fiscal year or the preceding calendar year, whichever is more beneficial to the airport.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 103–305, title I, § 117, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, § 6(69), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 106–181, title I, § 152(b), Apr. 5, 2000, 114 Stat. 87; Pub. L. 108–176, title I, §§ 149(d), 166, Dec. 12, 2003, 117 Stat. 2505, 2514.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47119(a)	49 App.:2212(b)(4).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(4), 96 Stat. 690; Dec. 30, 1987, Pub. L. 100–223, § 106(b)(5)(B), 101 Stat. 1498.
47119(b)	49 App.:2212(b)(2).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(2), 96 Stat. 690; Dec. 30, 1987, Pub. L. 100–223, §§ 106(b)(5)(A), 111(a)(1), 101 Stat. 1498, 1503.
	49 App.:2212(b)(3).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(3), 96 Stat. 690.

In subsection (a), before clause (1), the words ''(within the meaning of section 11(1) of the Airport and Airway Development Act of 1970 [49 App. U.S.C. 1711(1)] as in effect immediately before September 3, 1982)'' are omitted because of the definition of ''air carrier airport'' in section 47102 of the revised title. The words ''after June 30, 1970'' are substituted for ''on or after July 1, 1970'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words. The words ''to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title'' are substituted for ''for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection'' for clarity and to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''In a fiscal year'' are added for clarity. In clause (2), the words ''from the discretionary fund'' are substituted for ''sums to be distributed at the discretion of the Secretary under section 2206(c) of this Appendix'' for clarity and consistency in this chapter. In clause (3), the words ''for projects'' are added for clarity.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47119(b)	49 App.:2212(b)(2).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(2), as amended May 26, 1994, Pub. L. 103–260, § 107, 108 Stat. 700.

In subsection (b)(3), the words ''from the discretionary fund and small airport fund'' are substituted for ''sums to be distributed at the discretion of the Secretary under section 2206(c) and 2206(d) of this Appendix'' for clarity and consistency in this chapter.

REFERENCES IN TEXT

Section 20(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (b)(4), is section 20(b) of Pub. L. 91–258, which was classified to section 1720(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176, § 166, amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''An amount apportioned under section 47114 of this title and made available to the sponsor of an air carrier airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, or, in the case of a commercial service airport which annually had less than 0.05 percent of the total enplanements in the United States, between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title if they had been incurred after September 3, 1982. An amount is available for a grant under this subsection—

''(1) only if—

''(A) the sponsor submits the certification required under section 47110(d) of this title;

''(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

''(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money; and

''(2) subject to the limitations in subsection (b)(1) and (2) of this section.''

Subsec. (b)(5). Pub. L. 108–176, § 149(d), added par. (5).

2000—Subsec. (d). Pub. L. 106–181 added subsec. (d).

1994—Subsec. (a). Pub. L. 103–305, § 117(1), inserted ''or, in the case of a commercial service airport which annually had less than 0.05 percent of the total enplanements in the United States, between January 1, 1992, and October 31, 1992,'' after ''July 12, 1976,''.

Subsec. (b)(2). Pub. L. 103–429, § 6(69)(B), added par. (2) and struck out former par. (2) which read as follows:

''to a sponsor of a nonprimary commercial service airport, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund to pay project costs allowable under section 47110(d) of this title; or''.

Subsec. (b)(3). Pub. L. 103–429, § 6(69)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 103–429, § 6(69)(A), redesignated par. (3) as (4).

Subsec. (c). Pub. L. 103–305, § 117(2), added subsec. (c).

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 47120. Grant priority

(a) IN GENERAL.—In making a grant under this subchapter, the Secretary of Transportation may give priority to a project that is consistent with an integrated airport system plan.

(b) DISCRETIONARY FUNDING TO BE USED FOR HIGHER PRIORITY PROJECTS.—The Administrator of the Federal Aviation Administration shall discourage airport sponsors and airports from using entitlement funds for lower priority projects by giving lower priority to discretionary projects submitted by airport sponsors and airports that have used entitlement funds for projects that have a lower priority than the projects for which discretionary funds are being requested.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 106–181, title I, § 162, Apr. 5, 2000, 114 Stat. 91.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47120	49 App.:2208(b)(9).	Sept. 3, 1982, Pub. L. 97–248, § 509(b)(9), 96 Stat. 685.

The words ''In making a grant under this subchapter'' are substituted for ''In establishing priorities for distribution of funds available pursuant to section 2206 of this Appendix'' for consistency in this chapter and to eliminate unnecessary words.

AMENDMENTS

2000—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 47121. Records and audits

(a) RECORDS.—A sponsor shall keep the records the Secretary of Transportation requires. The Secretary may require records—

(1) that disclose—

(A) the amount and disposition by the sponsor of the proceeds of the grant;

(B) the total cost of the plan or program for which the grant is given or used; and

(C) the amounts and kinds of costs of the plan or program provided by other sources; and

(2) that make it easier to carry out an audit.

(b) AUDITS AND EXAMINATIONS.—The Secretary and the Comptroller General may audit and examine records of a sponsor that are related to a grant made under this subchapter.

(c) AUTHORITY OF COMPTROLLER GENERAL.—When an independent audit is made of the accounts of a sponsor under this subchapter related to the disposition of the proceeds of the grant or related to the plan or program for which the grant was given or used, the sponsor shall submit a certified copy of the audit to the Secretary not more than 6 months after the end of the fiscal year for which the audit was made. The Comptroller General may report to Congress describing the results of each audit conducted or reviewed by the Comptroller General under this section during the prior fiscal year.

(d) AUDIT REQUIREMENT.—The Secretary may require a sponsor to conduct an appropriate audit as a condition for receiving a grant under this subchapter.

(e) ANNUAL REVIEW.—The Secretary shall review annually the recordkeeping and reporting requirements under this subchapter to ensure that they are the minimum necessary to carry out this subchapter.

(f) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize the Secretary or the Comptroller General to withhold information from a committee of Congress authorized to have the information.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 104–316, title I, § 127(f), Oct. 19, 1996, 110 Stat. 3840.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47121(a)	49 App.:2217(a) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 518, 96 Stat. 693.
47121(b)	49 App.:2217(b) (1st sentence).	
47121(c)	49 App.:2217(c).	
47121(d)	49 App.:2217(b) (last sentence).	
47121(e)	49 App.:2217(a) (last sentence).	
47121(f)	49 App.:2217(d).	

In subsections (a)–(d), the word ''sponsor'' is substituted for ''recipient of a grant under this chapter'' and ''recipient'' for clarity.

In subsection (a), before clause (1), the words ''The Secretary may require records'' are substituted for ''including records'' for clarity. In clause (1), before subclause (A), the word ''fully'' is omitted as surplus.

In subsection (b), the words ''or any of their duly authorized representatives'' are omitted as surplus because of 49:322(b) and 31:711. The words ''may audit and examine'' are substituted for ''shall have access for the purpose of audit and examination'' to eliminate unnecessary words. The words ''books, documents, papers'' are omitted as being included in ''records''.

In subsection (e), the words ''minimum necessary to carry out'' are substituted for ''that such requirements are kept to the minimum level necessary for the proper administration of'' to eliminate unnecessary words.

In subsection (f), the words ''or any officer or employee under the control of either of them'' are omitted as surplus because of 49:322(b) and 31:711.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–316, in first sentence, substituted ''Secretary'' for ''Comptroller General'', in second sentence, substituted ''The Comptroller General may'' for ''Not later than April 15 of each year, the Comptroller General shall'', and struck out at end ''The Comptroller General shall prescribe regulations necessary to carry out this subsection.''

§ 47122. Administrative

(a) GENERAL.—The Secretary of Transportation may take action the Secretary considers necessary to carry out this subchapter, including conducting investigations and public hearings, prescribing regulations and procedures, and issuing orders.

(b) CONDUCTING INVESTIGATIONS AND PUBLIC HEARINGS.—In conducting an investigation or public hearing under this subchapter, the Secretary has the same authority the Secretary has under section 46104 of this title. An action of the Secretary in exercising that authority is governed by the procedures specified in section 46104 and shall be enforced as provided in section 46104.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1275.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47122(a)	49 App.:2218(a).	Sept. 3, 1982, Pub. L. 97–248, § 519(a), 96 Stat. 694; Dec. 30, 1987, Pub. L. 100–223, § 112(1), 101 Stat. 1504.
47122(b)	49 App.:1354(c) (related to Airport and Airway Improvement Act of 1982).	Aug. 23, 1958, Pub. L. 85–726, § 313(c) (related to Airport and Airway Improvement Act of 1982), 72 Stat. 753; Sept. 3, 1982, Pub. L. 97–248, § 524(a)(2), 96 Stat. 696.

Subsection (a) is substituted for 49 App.:2218(a) to eliminate unnecessary words.

§ 47123. Nondiscrimination

The Secretary of Transportation shall take affirmative action to ensure that an individual is not excluded because of race, creed, color, national origin, or sex from participating in an activity carried out with money received under a grant under this subchapter. The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall be similar to those in effect under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). This section is in addition to title VI of the Act.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1275.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47123	49 App.:2219.	Sept. 3, 1982, Pub. L. 97–248, § 520, 96 Stat. 694.

The words ''as the Secretary deems'' and ''the purposes of'' are omitted as surplus. The words ''The regulations shall be similar to those in effect under'' are substituted for ''and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under'' for clarity and to eliminate unnecessary words and because ''rules'' and ''regulations'' are synonymous. The words ''The provisions of . . . and not in lieu of the provisions of'' are omitted as surplus. The word ''is'' is substituted for ''shall be considered to be'' to eliminate unnecessary words.

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§ 47124. Agreements for State and local operation of airport facilities

(a) GOVERNMENT RELIEF FROM LIABILITY.—The Secretary of Transportation shall ensure that an agreement under this subchapter with a qualified entity (as determined by the Secretary), State, or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport facility relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the entity, State, or subdivision in operating the airport facility.

(b) AIR TRAFFIC CONTROL CONTRACT PROGRAM.—(1) The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable.

(2) The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.

(3) CONTRACT AIR TRAFFIC CONTROL TOWER PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish a program to contract for air traffic control services at nonapproach control towers, as defined by the Secretary, that do not qualify for the contract tower program established under subsection (a) and continued under paragraph (1) (in this paragraph referred to as the ''Contract Tower Program'').

(B) PROGRAM COMPONENTS.—In carrying out the program, the Secretary shall—

(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Secretary; and

(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a 1-to-1 benefit-to-cost

ratio using actual site-specific contract tower operating costs in any case in which there is an operating air traffic control tower, as required for eligibility under the Contract Tower Program.

(C) PRIORITY.—In selecting facilities to participate in the program, the Secretary shall give priority to the following facilities:

(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Secretary has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

(ii) Air traffic control towers that the Secretary determines have a benefit-to-cost ratio of at least .50.

(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

(iv) Air traffic control towers located at airports or points at which an air carrier is receiving compensation under the essential air service program under this chapter.

(v) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

(vi) Air traffic control towers located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

(vii) Air traffic control towers located at an airport at which the community has been operating the tower at its own expense.

(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic tower under the program exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefit.

(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k), not more than $6,500,000 for fiscal 2004, $7,000,000 for fiscal year 2005, $7,500,000 for fiscal year 2006, and $8,000,000 for fiscal year 2007 may be used to carry out this paragraph.

(4) CONSTRUCTION OF AIR TRAFFIC CONTROL TOWERS.—

(A) GRANTS.—The Secretary may provide grants to a sponsor of—

(i) a primary airport—

(I) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of construction or improvement of a nonapproach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of acquiring and installing in that tower air traffic control, communications, and related equipment that was acquired or installed after October 1, 1996; and

(ii) a public-use airport that is not a primary airport—

(I) from amounts made available under sections 47114(c)(2) and 47114(d) for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c)(2) and 47114(d)(3)(A) for reimbursement for the cost of construction or improvement of a nonapproach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c)(2) and 47114(d)(3)(A) for reimbursement for the cost of acquiring and installing in that tower air traffic control, communications, and related equipment that was acquired or installed after October 1, 1996.

(B) ELIGIBILITY.—An airport sponsor shall be eligible for a grant under this paragraph only if—

(i)(I) the sponsor is a participant in the Federal Aviation Administration contract tower program established under subsection (a) and continued under paragraph (1) or the pilot program established under paragraph (3); or

(II) construction of a nonapproach control tower would qualify the sponsor to be eligible to participate in such program;

(ii) the sponsor certifies that it will pay not less than 10 percent of the cost of the activities for which the sponsor is receiving assistance under this paragraph;

(iii) the Secretary affirmatively accepts the proposed contract tower into a contract tower program under this section and certifies that the Secretary will seek future appropriations to pay the Federal Aviation Administration's cost of the contract to operate the tower to be constructed under this paragraph;

(iv) the sponsor certifies that it will pay its share of the cost of the contract to operate the tower to be constructed under this paragraph; and

(v) in the case of a tower to be constructed under this paragraph from amounts made available under section 47114(d)(2) or 47114(d)(3)(B), the Secretary certifies that—

(I) the Federal Aviation Administration has consulted the State within the borders of which the tower is to be constructed and the State supports the construction of the tower as part of its State airport capital plan; and

(II) the selection of the tower for funding is based on objective criteria.

(C) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of construction of a nonapproach control tower under this paragraph may not exceed $1,500,000.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1276; Pub. L. 106–181, title I, § 131, Apr. 5, 2000, 114 Stat. 78; Pub. L. 108–7, div. I, title III, § 370(b)(1), (2), Feb. 20, 2003, 117 Stat. 425, 426; Pub. L. 108–176, title I, § 105, Dec. 12, 2003, 117 Stat. 2498.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47124(a)	49 App.:2222.	Sept. 3, 1982, Pub. L. 97–248, § 526, 96 Stat. 698.
47124(b)(1) ..	49 App.:2222 (note).	Dec. 30, 1987, Pub. L. 100–223, § 306, 101 Stat. 1526.
47124(b)(2) ..	49 App.:1344(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 747, § 303(h); added Oct. 31, 1992, Pub. L. 102–581, § 201(a), 106 Stat. 4890.

In subsection (a), the words ''In the powers granted under section 2218 of this Appendix'' and ''contract or other'' are omitted as surplus. The word ''relieves'' is substituted for ''contain, among others, a provision relieving'', and the words ''from any liability arising out of, or related to'' are substituted for ''of any and all liability for the payment of any claim or other obligation arising out of or in connection with'', to eliminate unnecessary words.

In subsection (b)(1), the words ''in effect'' are omitted as surplus. The words ''on December 30, 1987'' are added for clarity.

In subsection (b)(2), the word ''Secretary'' is substituted for ''Administrator'' for consistency in the chapter.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176, § 105(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''The Secretary of Transportation shall ensure that an agreement under this subchapter with a State or a political subdivision of a State to allow the State or subdivision to operate an airport facility in the State or subdivision relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the State or subdivision in operating the airport facility.''

Subsec. (b)(2). Pub. L. 108–176, § 105(2), added par. (2) and struck out former par. (2) which read as follows: ''The Secretary may make a contract, on a sole source basis, with a State or a political subdivision of a State to allow the State or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the State or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the State or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.''

Subsec. (b)(3). Pub. L. 108–176, § 105(3)(A), (B), struck out ''PILOT'' before ''PROGRAM'' in par. heading, before ''program to contract'' in subpar. (A), before ''program, the Secretary'' in subpars. (B) and (C), and before ''program exceed'' in subpar. (D).

Subsec. (b)(3)(A). Pub. L. 108–7, § 370(b)(2)(A), substituted ''nonapproach control towers, as defined by the Secretary,'' for ''Level I air traffic control towers, as defined by the Secretary,''.

Subsec. (b)(3)(E). Pub. L. 108–176, § 105(3)(C), substituted ''$6,500,000 for fiscal 2004, $7,000,000 for fiscal year 2005, $7,500,000 for fiscal year 2006, and $8,000,000 for fiscal year 2007'' for ''$6,000,000 per fiscal year''.

Pub. L. 108–7, § 370(b)(2)(B), substituted ''Of'' for ''Subject to paragraph (4)(D), of''.

Subsec. (b)(4). Pub. L. 108–7, § 370(b)(1), reenacted heading without change and amended text generally. Prior to amendment, par. authorized the Secretary to provide grants under this subchapter to not more than two airport sponsors for the construction of a low-level activity visual flight rule (level 1) air traffic control tower.

Subsec. (b)(4)(C). Pub. L. 108–176, § 105(4), substituted ''$1,500,000'' for ''$1,100,000''.

2000—Subsec. (b)(3), (4). Pub. L. 106–181 added pars. (3) and (4).

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

SAVINGS PROVISION

Pub. L. 108–7, div. I, title III, § 370(b)(3), Feb. 20, 2003, 117 Stat. 426, provided that: ''Notwithstanding the amendments made by this section [amending this section and section 47102 of this title], the towers for which assistance is being provided on the day before the date of enactment of this Act [Feb. 20, 2003] under section 47124(b)(4) of title 49, United States Code, as in effect on such day, may continue to be provided such assistance under the terms of such section.''

NONAPPROACH CONTROL TOWERS

Pub. L. 108–7, div. I, title III, § 370(c), Feb. 20, 2003, 117 Stat. 426, provided that:

''(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a lease agreement or contract agreement with a private entity to provide for construction and operation of a nonapproach control tower as defined by the Secretary of Transportation.

''(2) TERMS AND CONDITIONS.—An agreement entered into under this section—

''(A) shall be negotiated under such procedures as the Administrator considers necessary to ensure the integrity of the selection process, the safety of air travel, and to protect the interests of the United States;

''(B) may provide a lease option to the United States, to be exercised at the discretion of the Administrator, to occupy any general-purpose space in a facility covered by the agreement;

''(C) shall not require, unless specifically determined otherwise by the Administrator, Federal ownership of a facility covered under the agreement after the expiration of the agreement;

''(D) shall describe the consideration, duties, and responsibilities for which the United States and the private entity are responsible;

''(E) shall provide that the United States will not be liable for any action, debt, or liability of any entity created by the agreement;

''(F) shall provide that the private entity may not execute any instrument or document creating or evidencing any indebtedness with respect to a facility covered by the agreement unless such instrument or document specifically disclaims any liability of the United States under the instrument or document; and

''(G) shall include such other terms and conditions as the Administrator considers appropriate.''

USE OF APPORTIONMENTS TO PAY NON-FEDERAL SHARE OF OPERATION COSTS

Pub. L. 108–7, div. I, title III, § 370(d), Feb. 20, 2003, 117 Stat. 427, provided that:

''(1) STUDY.—The Secretary of Transportation shall conduct a study of the feasibility, costs, and benefits of allowing the sponsor of an airport to use not to exceed 10 percent of amounts apportioned to the sponsor under section 47114 to pay the non-Federal share of the cost of operation of an air traffic control tower under section 47124(b) of title 49, United States Code.

''(2) REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 20, 2003], the Secretary shall transmit to Congress a report on the results of the study.''

CONTRACT TOWER ASSISTANCE

Pub. L. 103–305, title V, § 508, Aug. 23, 1994, 108 Stat. 1596, provided that: ''The Secretary shall take appropriate action to assist communities where the Secretary deems such assistance appropriate in obtaining the installation of a Level I Contract Tower for those communities.''

§ 47125. Conveyances of United States Government land

(a) CONVEYANCES TO PUBLIC AGENCIES.—Except as provided in subsection (b) of this section, the Secretary of Transportation shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems. The head of the department, agency, or instrumentality shall decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality and shall notify the Secretary of that decision not later than 4 months after receiving the request. If the head of the department, agency, or instrumentality decides that the requested conveyance is consistent with its needs, the head of the department, agency, or instrumentality, with the approval of the Attorney General and without cost to the Government, shall make the conveyance. A conveyance may be made only on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance. Before waiving a condition that property be used for an aeronautical purpose under the preceding sentence, the Secretary must provide notice to the public not less than 30 days before waiving such condition.

(b) NONAPPLICATION.—Except as specifically provided by law, subsection (a) of this section does not apply to land or airspace owned or controlled by the Government within—

(1) a national park, national monument, national recreation area, or similar area under the administration of the National Park Service;

(2) a unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or

(3) a national forest or Indian reservation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1276; Pub. L. 106–181, title I, § 125(b), Apr. 5, 2000, 114 Stat. 75.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47125(a)	49 App.:2215(a), (b).	Sept. 3, 1982, Pub. L. 97–248, § 516, 96 Stat. 692.
47125(b)	49 App.:2215(c).	

In subsection (a), the text of 49 App.:2215(a) (last sentence) is omitted as surplus because a ''property interest in land or airspace'' necessarily includes ''title to . . . land or any easement through . . . airspace''. The words ''when necessary'' are substituted for ''whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for'', and the words ''for the future development'' are substituted for ''including lands reasonably necessary to meet future development'', to eliminate unnecessary words. The words ''not later than 4 months after receiving the request'' are substituted for ''Upon receipt of a request from the Secretary under this section'' and ''within a period of four months after receipt of the Secretary's request'' for clarity and to eliminate unnecessary words. The words ''make the conveyance'' are substituted for ''perform any acts and to execute any instruments necessary to make the conveyance requested'', and the words ''that the property interest conveyed reverts to the Government . . . to the extent it is not'' are substituted for ''the property interest conveyed shall revert to the United States in the event that the lands in question are not'' and ''If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States'', to eliminate unnecessary words. The words ''the terms of'' are omitted as surplus.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–181 inserted at end ''Before waiving a condition that property be used for an aeronautical purpose under the preceding sentence, the Secretary must provide notice to the public not less than 30 days before waiving such condition.''

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

CONSTRUCTION OF 2000 AMENDMENT

Nothing in amendment by Pub. L. 106–181 to be construed to authorize Secretary of Transportation to issue waiver or make a modification referred to in such amendment, see section 125(e) of Pub. L. 106–181, set out as a note under section 47107 of this title.

§ 47126. Criminal penalties for false statements

A person (including an officer, agent, or employee of the United States Government or a public agency) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, with intent to defraud the Government, knowingly makes—

(1) a false statement about the kind, quantity, quality, or cost of the material used or to be used, or the quantity, quality, or cost of work performed or to be performed, in connection with the submission of a plan, map, specification, contract, or estimate of project cost for a project included in a grant application submitted to the Secretary of Transportation for approval under this subchapter;

(2) a false statement or claim for work or material for a project included in a grant application approved by the Secretary under this subchapter; or

(3) a false statement in a report or certification required under this subchapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47126	49 App.:2216.	Sept. 3, 1982, Pub. L. 97–248, § 517, 96 Stat. 693.

In this section, before clause (1), the words ''association, firm, or corporation'' are omitted because of 1:1. The words ''fined under title 18'' are substituted for ''a fine of not to exceed $10,000'' for consistency with title 18. In clauses (1)–(3), the words ''false representation'' are omitted as surplus. In clauses (1) and (2), the words ''false report'' are omitted as surplus. The words ''included in a grant application'' are added for clarity and consistency in this chapter. In clause (3), the words ''to be made'' are omitted as surplus.

§ 47127. Ground transportation demonstration projects

(a) GENERAL AUTHORITY.—To improve the airport and airway system of the United States consistent with regional airport system plans financed under section 13(b) of the Airport and Airway Development Act of 1970, the Secretary of Transportation may carry out ground transportation demonstration projects to improve ground access to air carrier airport terminals. The Secretary may carry out a demonstration project independently or by grant or contract, including an agreement with another department, agency, or instrumentality of the United States Government.

(b) PRIORITY.—In carrying out this section, the Secretary shall give priority to a demonstration project that—

(1) affects an airport in an area with an operating regional rapid transit system with existing facilities reasonably near the airport;

(2) includes connection of the airport terminal to that system;

(3) is consistent with and supports a regional airport system plan adopted by the planning agency for the region and submitted to the Secretary; and

(4) improves access to air transportation for individuals residing or working in the region by encouraging the optimal balance of use of airports in the region.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47127(a)	49 App.:1713a(1).	July 12, 1976, Pub. L. 94–353, § 23(a), 90 Stat. 884.
47127(b)	49 App.:1713a(2).	

In subsection (a), the words ''To improve'' are substituted for ''which he determines will assist the improvement of'' to eliminate unnecessary words.

In subsection (b)(2), the word ''facilities'' is omitted as surplus.

REFERENCES IN TEXT

Section 13(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (a), is section 13(b) of Pub. L. 91–258, which was classified to section 1713(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

§ 47128. State block grant program

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall prescribe regulations to carry out a State block grant program. The regulations shall provide that the Secretary may designate not more than 9 qualified States for fiscal years 2000 and 2001 and 10 qualified States for each fiscal year thereafter to assume administrative responsibility for all airport grant amounts available under this subchapter, except for amounts designated for use at primary airports.

(b) APPLICATIONS AND SELECTION.—A State wishing to participate in the program must submit an application to the Secretary. The Secretary shall select a State on the basis of its application only after—

(1) deciding the State has an organization capable of effectively administering a block grant made under this section;

(2) deciding the State uses a satisfactory airport system planning process;

(3) deciding the State uses a programming process acceptable to the Secretary;

(4) finding that the State has agreed to comply with United States Government standard requirements for administering the block grant; and

(5) finding that the State has agreed to provide the Secretary with program information the Secretary requires.

(c) SAFETY AND SECURITY NEEDS AND NEEDS OF SYSTEM.—Before deciding whether a planning process is satisfactory or a programming process is acceptable under subsection (b)(2) or (b)(3) of this section, the Secretary shall ensure that the process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding which projects will receive money from the Government. In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1277; Pub. L. 103–429, § 6(70), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 104–264, title I, § 147(a)–(c)(1), Oct. 9, 1996, 110 Stat. 3223; Pub. L. 104–287, § 5(84), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 105–102, § 3(d)(1)(E), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106–181, title I, § 138, Apr. 5, 2000, 114 Stat. 85.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47128(a)	49 App.:2227(a) (1st sentence), (b) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 534; added Dec. 30, 1987, Pub. L. 100–223, § 116, 101 Stat. 1507; Nov. 5, 1990, Pub. L. 101–508, § 9114, 104 Stat. 1388–364; Oct. 31, 1992, Pub. L. 102–581, § 116, 106 Stat. 4881.
47128(b)(1) ..	49 App.:2227(c) (1st, 2d sentences).	
47128(b)(2) ..	49 App.:2227(b) (last sentence).	
47128(c)	49 App.:2227(c) (last sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47128(d)	49 App.:2227(a) (last sentence), (d).	

In subsection (a), the words ''Not later than 180 days after December 30, 1987'' and ''to become effective on October 1, 1989'' are omitted as obsolete.

In subsection (b)(1)(A), the words ''agency or'' are omitted as surplus.

In subsection (b)(1)(D), the words ''procedural and other'' are omitted as surplus.

In subsection (d), the text of 49 App.:2227(d) is omitted as executed.

PUB. L. 103–429

This amends 49:47128(c) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1278).

PUB. L. 104–287

This makes a clarifying amendment to the catchline for 49:47128(d).

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–181 substituted ''9 qualified States for fiscal years 2000 and 2001 and 10 qualified States for each fiscal year thereafter'' for ''8 qualified States for fiscal year 1997 and 9 qualified States for each fiscal year thereafter''.

1997—Subsec. (d). Pub. L. 105–102 repealed Pub. L. 104–287, § 5(84). See 1996 Amendment note below.

1996—Pub. L. 104–264, § 147(c)(1)(A), substituted ''grant program'' for ''grant pilot program'' in section catchline.

Subsec. (a). Pub. L. 104–264, § 147(a)(1), (c)(1)(B), substituted ''block grant program'' for ''block grant pilot program'' and ''8 qualified States for fiscal year 1997 and 9 qualified States for each fiscal year thereafter'' for ''7 qualified States''.

Subsec. (b). Pub. L. 104–264, § 147(a)(2), (3), struck out ''(1)'' before ''A State wishing'', redesignated subpars. (A) to (E) as pars. (1) to (5), respectively, and struck out former par. (2) which read as follows: ''For the fiscal years ending September 30, 1993–1996, the States selected shall include Illinois, Missouri, and North Carolina.''

Subsec. (c). Pub. L. 104–264, § 147(b), substituted ''(b)(2) or (b)(3)'' for ''(b)(1)(B) or (C)'' and inserted at end ''In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.''

Subsec. (d). Pub. L. 104–287, § 5(84), which directed amendment of heading by striking ''and report'', was repealed by Pub. L. 105–102.

Pub. L. 104–264, § 147(c)(1)(C), struck out subsec. (d) which read as follows:

''(d) ENDING EFFECTIVE DATE AND REPORT.—This section is effective only through September 30, 1996.''

1994—Subsec. (c). Pub. L. 103–429 substituted ''subsection (b)(1)(B) or (C)'' for ''subsection (b)(2) or (3)''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, § 3(d), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(d)(1)(E) is effective Oct. 11, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 47129. Resolution of airport-air carrier disputes concerning airport fees

(a) AUTHORITY TO REQUEST SECRETARY'S DETERMINATION.—

(1) IN GENERAL.—The Secretary of Transportation shall issue a determination as to whether a fee imposed upon one or more air carriers (as defined in section 40102 of this title) by the owner or operator of an airport is reasonable if—

(A) a written request for such determination is filed with the Secretary by such owner or operator; or

(B) a written complaint requesting such determination is filed with the Secretary by an affected air carrier within 60 days after such carrier receives written notice of the establishment or increase of such fee.

(2) CALCULATION OF FEE.—A fee subject to a determination of reasonableness under this section may be calculated pursuant to either a compensatory or residual fee methodology or any combination thereof.

(3) SECRETARY NOT TO SET FEE.—In determining whether a fee is reasonable under this section, the Secretary may only determine whether the fee is reasonable or unreasonable and shall not set the level of the fee.

(4) FEES IMPOSED BY PRIVATELY-OWNED AIRPORTS.—In evaluating the reasonableness of a fee imposed by an airport receiving an exemption under section 47134 of this title, the Secretary shall consider whether the airport has complied with section 47134(c)(4).

(b) PROCEDURAL REGULATIONS.—Not later than 90 days after August 23, 1994, the Secretary shall publish in the Federal Register final regulations, policy statements, or guidelines establishing—

(1) the procedures for acting upon any written request or complaint filed under subsection (a)(1); and

(2) the standards or guidelines that shall be used by the Secretary in determining under this section whether an airport fee is reasonable.

(c) DECISIONS BY SECRETARY.—The final regulations, policy statements, or guidelines required in subsection (b) shall provide the following:

(1) Not more than 120 days after an air carrier files with the Secretary a written complaint relating to an airport fee, the Secretary shall issue a final order determining whether such fee is reasonable.

(2) Within 30 days after such complaint is filed with the Secretary, the Secretary shall

dismiss the complaint if no significant dispute exists or shall assign the matter to an administrative law judge; and thereafter the matter shall be handled in accordance with part 302 of title 14, Code of Federal Regulations, or as modified by the Secretary to ensure an orderly disposition of the matter within the 120-day period and any specifically applicable provisions of this section.

(3) The administrative law judge shall issue a recommended decision within 60 days after the complaint is assigned or within such shorter period as the Secretary may specify.

(4) If the Secretary, upon the expiration of 120 days after the filing of the complaint, has not issued a final order, the decision of the administrative law judge shall be deemed to be the final order of the Secretary.

(5) Any party to the dispute may seek review of a final order of the Secretary under this subsection in the Circuit Court of Appeals for the District of Columbia Circuit or the court of appeals in the circuit where the airport which gives rise to the written complaint is located.

(6) Any findings of fact in a final order of the Secretary under this subsection, if supported by substantial evidence, shall be conclusive if challenged in a court pursuant to this subsection. No objection to such a final order shall be considered by the court unless objection was urged before an administrative law judge or the Secretary at a proceeding under this subsection or, if not so urged, unless there were reasonable grounds for failure to do so.

(d) PAYMENT UNDER PROTEST; GUARANTEE OF AIR CARRIER ACCESS.—

(1) PAYMENT UNDER PROTEST.—

(A) IN GENERAL.—Any fee increase or newly established fee which is the subject of a complaint that is not dismissed by the Secretary shall be paid by the complainant air carrier to the airport under protest.

(B) REFERRAL OR CREDIT.—Any amounts paid under this subsection by a complainant air carrier to the airport under protest shall be subject to refund or credit to the air carrier in accordance with directions in the final order of the Secretary within 30 days of such order.

(C) ASSURANCE OF TIMELY REPAYMENT.—In order to assure the timely repayment, with interest, of amounts in dispute determined not to be reasonable by the Secretary, the airport shall obtain a letter of credit, or surety bond, or other suitable credit facility, equal to the amount in dispute that is due during the 120-day period established by this section, plus interest, unless the airport and the complainant air carrier agree otherwise.

(D) DEADLINE.—The letter of credit, or surety bond, or other suitable credit facility shall be provided to the Secretary within 20 days of the filing of the complaint and shall remain in effect for 30 days after the earlier of 120 days or the issuance of a timely final order by the Secretary determining whether such fee is reasonable.

(2) GUARANTEE OF AIR CARRIER ACCESS.—Contingent upon an air carrier's compliance with the requirements of paragraph (1) and pending the issuance of a final order by the Secretary determining the reasonableness of a fee that is the subject of a complaint filed under subsection (a)(1)(B), an owner or operator of an airport may not deny an air carrier currently providing air service at the airport reasonable access to airport facilities or service, or otherwise interfere with an air carrier's prices, routes, or services, as a means of enforcing the fee.

(e) APPLICABILITY.—This section does not apply to—

(1) a fee imposed pursuant to a written agreement with air carriers using the facilities of an airport;

(2) a fee imposed pursuant to a financing agreement or covenant entered into prior to August 23, 1994; or

(3) any other existing fee not in dispute as of August 23, 1994.

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect—

(1) the rights of any party under any existing written agreement between an air carrier and the owner or operator of an airport; or

(2) the ability of an airport to meet its obligations under a financing agreement, or covenant, that is in force as of August 23, 1994.

(g) DEFINITION.—In this section, the term ''fee'' means any rate, rental charge, landing fee, or other service charge for the use of airport facilities.

(Added Pub. L. 103–305, title I, § 113(a)(2), Aug. 23, 1994, 108 Stat. 1577; amended Pub. L. 104–264, title I, § 149(d), Oct. 9, 1996, 110 Stat. 3227; Pub. L. 104–287, § 5(85), Oct. 11, 1996, 110 Stat. 3397.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, § 5(85)(A)

This amends 49:47129(a)(1) to conform to the style of title 49.

PUB. L. 104–287, § 5(85)(B) AND (C)

These set out the date of enactment of 49:47129.

PRIOR PROVISIONS

A prior section 47129 was renumbered section 47131 of this title.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–287, § 5(85)(A), substituted ''of this title'' for ''of this subtitle'' in introductory provisions.

Subsec. (a)(4). Pub. L. 104–264 added par. (4).

Subsecs. (b), (e)(2). Pub. L. 104–287, § 5(85)(B), substituted ''August 23, 1994'' for ''the date of the enactment of this section''.

Subsec. (e)(3). Pub. L. 104–287, § 5(85)(C), substituted ''August 23, 1994'' for ''such date of enactment''.

Subsec. (f)(2). Pub. L. 104–287, § 5(85)(B), substituted ''August 23, 1994'' for ''the date of the enactment of this section''.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 47130. Airport safety data collection

Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. In the event that a grant is provided under this section, the United States Government's share of the cost of the data collection shall be 100 percent.

(Added Pub. L. 103–305, title I, § 118(a), Aug. 23, 1994, 108 Stat. 1580; amended Pub. L. 108–176, title I, § 154, Dec. 12, 2003, 117 Stat. 2507.)

AMENDMENTS

2003—Pub. L. 108–176 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may contract, using sole source or limited source authority, for the collection of airport safety data.''

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.

§ 47131. Annual report

(a) GENERAL RULE.—Not later than April 1 of each year, the Secretary of Transportation shall submit to Congress a report on activities carried out under this subchapter during the prior fiscal year. The report shall include—

(1) a detailed statement of airport development completed;

(2) the status of each project undertaken;

(3) the allocation of appropriations;

(4) an itemized statement of expenditures and receipts; and

(5) a detailed statement listing airports that the Secretary believes are not in compliance with grant assurances or other requirements with respect to airport lands and including the circumstances of such noncompliance, the timelines for corrective action, and the corrective action the Secretary intends to take to bring the airport sponsor into compliance.

(b) SPECIAL RULE FOR LISTING NONCOMPLIANT AIRPORTS.—The Secretary does not have to conduct an audit or make a final determination before including an airport on the list referred to in subsection (a)(5).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1278, § 47129; renumbered § 47131, Pub. L. 103–305, title I, § 113(a)(1), Aug. 23, 1994, 108 Stat. 1577; amended Pub. L. 106–181, title VII, § 722, Apr. 5, 2000, 114 Stat. 165.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47129	49 App.:2220.	Sept. 3, 1982, Pub. L. 97–248, § 521, 96 Stat. 694.

In this section, before clause (1), the words ''on activities carried out'' are substituted for ''describing his operations'' for clarity.

AMENDMENTS

2000—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, added par. (5) of subsec. (a), and added subsec. (b).

1994—Pub. L. 103–305 renumbered section 47129 of this title as this section.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

[§ 47132. Repealed. Pub. L. 106–181, title I, § 123(a)(1), Apr. 5, 2000, 114 Stat. 74]

Section, added Pub. L. 104–264, title I, § 142(a), Oct. 9, 1996, 110 Stat. 3221, temporarily directed the Administrator of the Federal Aviation Administration to issue guidelines to carry out not more than 10 pavement maintenance pilot projects.

EFFECTIVE DATE OF REPEAL

Repeal applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 47133. Restriction on use of revenues

(a) PROHIBITION.—Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

(1) the airport;

(2) the local airport system; or

(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

(b) EXCEPTIONS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(Added Pub. L. 104–264, title VIII, § 804(a), Oct. 9, 1996, 110 Stat. 3271.)

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§ 47134. Pilot program on private ownership of airports

(a) SUBMISSION OF APPLICATIONS.—If a sponsor intends to sell or lease a general aviation air-

port or lease any other type of airport for a long term to a person (other than a public agency), the sponsor and purchaser or lessee may apply to the Secretary of Transportation for exemptions under this section.

(b) APPROVAL OF APPLICATIONS.—The Secretary may approve, with respect to not more than 5 airports, applications submitted under subsection (a) granting exemptions from the following provisions:

(1) USE OF REVENUES.—

(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease of the airport such amount as may be approved—

(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

(ii) in the case of a nonprimary airport, by the Secretary after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.

(B) OBJECTION TO EXEMPTION.—An air carrier shall be deemed to have approved a sponsor's application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor's application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.

(C) LANDED WEIGHT DEFINED.—In this paragraph, the term ''landed weight'' means the weight of aircraft transporting passengers or cargo, or both, in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

(2) REPAYMENT REQUIREMENTS.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107 and 47152 of this title (and any other law, regulation, or grant assurance) to the extent necessary to waive any obligation of the sponsor to repay to the Federal Government any grants, or to return to the Federal Government any property, received by the airport under this title, the Airport and Airway Improvement Act of 1982, or any other law.

(3) COMPENSATION FROM AIRPORT OPERATIONS.—The Secretary may grant an exemption to a purchaser or lessee from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

(c) TERMS AND CONDITIONS.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the sale or lease agreement includes provisions satisfactory to the Secretary to ensure the following:

(1) The airport will continue to be available for public use on reasonable terms and conditions and without unjust discrimination.

(2) The operation of the airport will not be interrupted in the event that the purchaser or lessee becomes insolvent or seeks or becomes subject to any State or Federal bankruptcy, reorganization, insolvency, liquidation, or dissolution proceeding or any petition or similar law seeking the dissolution or reorganization of the purchaser or lessee or the appointment of a receiver, trustee, custodian, or liquidator for the purchaser or lessee or a substantial part of the purchaser or lessee's property, assets, or business.

(3) The purchaser or lessee will maintain, improve, and modernize the facilities of the airport through capital investments and will submit to the Secretary a plan for carrying out such maintenance, improvements, and modernization.

(4) Every fee of the airport imposed on an air carrier on the day before the date of the lease of the airport will not increase faster than the rate of inflation unless a higher amount is approved—

(A) by at least 65 percent of the air carriers serving the airport; and

(B) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

(5) The percentage increase in fees imposed on general aviation aircraft at the airport will not exceed the percentage increase in fees imposed on air carriers at the airport.

(6) Safety and security at the airport will be maintained at the highest possible levels.

(7) The adverse effects of noise from operations at the airport will be mitigated to the same extent as at a public airport.

(8) Any adverse effects on the environment from airport operations will be mitigated to the same extent as at a public airport.

(9) Any collective bargaining agreement that covers employees of the airport and is in effect on the date of the sale or lease of the airport will not be abrogated by the sale or lease.

(d) PARTICIPATION OF CERTAIN AIRPORTS.—

(1) GENERAL AVIATION AIRPORTS.—If the Secretary approves under subsection (b) applications with respect to 5 airports, one of the airports must be a general aviation airport.

(2) LARGE HUB AIRPORTS.—The Secretary may not approve under subsection (b) more than 1 application submitted by an airport that had 1 percent or more of the total passenger boardings (as defined in section 47102) in the United States in the preceding calendar year.

(e) REQUIRED FINDING THAT APPROVAL WILL NOT RESULT IN UNFAIR METHODS OF COMPETITION.—The Secretary may approve an applica-

tion under subsection (b) only if the Secretary finds that the approval will not result in unfair and deceptive practices or unfair methods of competition.

(f) INTERESTS OF GENERAL AVIATION USERS.—In approving an application of an airport under this section, the Secretary shall ensure that the interests of general aviation users of the airport are not adversely affected.

(g) PASSENGER FACILITY FEES; APPORTIONMENTS; SERVICE CHARGES.—Notwithstanding that the sponsor of an airport receiving an exemption under subsection (b) is not a public agency, the sponsor shall not be prohibited from—

(1) imposing a passenger facility fee under section 40117 of this title;

(2) receiving apportionments under section 47114 of this title; or

(3) collecting reasonable rental charges, landing fees, and other service charges from aircraft operators under section 40116(e)(2) of this title.

(h) EFFECTIVENESS OF EXEMPTIONS.—An exemption granted under subsection (b) shall continue in effect only so long as the facilities sold or leased continue to be used for airport purposes.

(i) REVOCATION OF EXEMPTIONS.—The Secretary may revoke an exemption issued to a purchaser or lessee of an airport under subsection (b)(3) if, after providing the purchaser or lessee with notice and an opportunity to be heard, the Secretary determines that the purchaser or lessee has knowingly violated any of the terms specified in subsection (c) for the sale or lease of the airport.

(j) NONAPPLICATION OF PROVISIONS TO AIRPORTS OWNED BY PUBLIC AGENCIES.—The provisions of this section requiring the approval of air carriers in determinations concerning the use of revenues, and imposition of fees, at an airport shall not be extended so as to apply to any airport owned by a public agency that is not participating in the program established by this section.

(k) AUDITS.—The Secretary may conduct periodic audits of the financial records and operations of an airport receiving an exemption under this section.

(*l*) REPORT.—Not later than 2 years after the date of the initial approval of an application under this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on implementation of the program under this section.

(m) GENERAL AVIATION AIRPORT DEFINED.—In this section, the term ''general aviation airport'' means an airport that is not a commercial service airport.

(Added Pub. L. 104–264, title I, § 149(a)(1), Oct. 9, 1996, 110 Stat. 3224; amended Pub. L. 108–176, title I, § 155(a), Dec. 12, 2003, 117 Stat. 2508.)

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (b)(2), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, as amended, which was classified principally to chapter 31 (§ 2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

AMENDMENTS

2003—Subsec. (b)(1)(A). Pub. L. 108–176, § 155(a)(1), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

''(i) by at least 65 percent of the air carriers serving the airport; and

''(ii) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.''

Subsec. (b)(1)(B), (C). Pub. L. 108–176, § 155(a)(2), (3), added subpar. (B) and redesignated former subpar. (B) as (C).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title I, § 155(b), Dec. 12, 2003, 117 Stat. 2508, provided that: ''The amendments made by subsection (a) [amending this section] shall not affect any application submitted before the date of enactment of this Act [Dec. 12, 2003].''

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§ 47135. Innovative financing techniques

(a) IN GENERAL.—The Secretary of Transportation may approve, after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, applications for not more than 20 airport development projects for which grants received under this subchapter may be used for innovative financing techniques. Such projects shall be located at airports that each year have less than .25 percent of the total number of passenger boardings each year at all commercial service airports in the most recent calendar year for which data is available.

(b) PURPOSE.—The purpose of grants made under this section shall be to provide information on the benefits and difficulties of using innovative financing techniques for airport development projects.

(c) LIMITATIONS.—

(1) NO GUARANTEES.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

(2) TYPES OF TECHNIQUES.—In this section, innovative financing techniques are limited to—

(A) payment of interest;

(B) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development;

(C) flexible non-Federal matching requirements; and

(D) use of funds apportioned under section 47114 for the payment of principal and interest of terminal development for costs incurred before the date of the enactment of this section.

(Added Pub. L. 106–181, title I, § 132(a), Apr. 5, 2000, 114 Stat. 80; amended Pub. L. 108–176, title I, § 156, Dec. 12, 2003, 117 Stat. 2508.)

REFERENCES IN TEXT

The date of enactment of the Vision 100—Century of Aviation Reauthorization Act, referred to in subsec. (a), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

The date of the enactment of this section, referred to in subsec. (c)(2)(D), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176 inserted ‘‘, after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act,’’ after ‘‘approve’’ in first sentence.

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

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 47136. Inherently low-emission airport vehicle pilot program

(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 public-use airports under which the sponsors of such airports may use funds made available under section 48103 for use at such airports to carry out inherently low-emission vehicle activities. Notwithstanding any other provision of this subchapter, inherently low-emission vehicle activities shall for purposes of the pilot program be treated as eligible for assistance under this subchapter.

(b) LOCATION IN AIR QUALITY NONATTAINMENT AREAS.—

(1) IN GENERAL.—A public-use airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)).

(2) SHORTAGE OF CANDIDATES.—If the Secretary receives an insufficient number of applications from public-use airports located in such areas, then the Secretary may consider applications from public-use airports that are not located in such areas.

(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

(d) UNITED STATES GOVERNMENT'S SHARE.—Notwithstanding any other provision of this subchapter, the United States Government's share of the costs of a project carried out under the pilot program shall be 50 percent.

(e) MAXIMUM AMOUNT.—Not more than $2,000,000 may be expended under the pilot program at any single public-use airport.

(f) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The sponsor of a public-use airport carrying out inherently low-emission vehicle activities under the pilot program may use not more than 10 percent of the amounts made available for expenditure at the airport in a fiscal year under the pilot program to receive technical assistance in carrying out such activities.

(2) ELIGIBLE CONSORTIUM.—To the maximum extent practicable, participants in the pilot program shall use an eligible consortium (as defined in section 5506[1] of this title) in the region of the airport to receive technical assistance described in paragraph (1).

(g) MATERIALS IDENTIFYING BEST PRACTICES.—The Administrator may develop and make available materials identifying best practices for carrying out low-emission vehicle activities based on the projects carried out under the pilot program and other sources.

(h) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) an evaluation of the effectiveness of the pilot program;

(2) an identification of other public-use airports that expressed an interest in participating in the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and know-how gained by participants in the pilot program is transferred among the participants and to other interested parties, including other public-use airports.

(i) INHERENTLY LOW-EMISSION VEHICLE ACTIVITY DEFINED.—In this section, the term ‘‘inherently low-emission vehicle activity’’ means—

(1) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of vehicles that are certified as inherently low-emission vehicles under title 40 of the Code of Federal Regulations and that—

(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

(B) are labeled in accordance with section 88.312–93(c) of such title; and

(C) are located or primarily used at public-use airports;

(2) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of nonroad vehicles that—

(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

(B) meet or exceed the standards set forth in section 86.1708–99 of such title or the

[1] See References in text note below.

standards set forth in section 89.112(a) of such title, and are in compliance with the requirements of section 89.112(b) of such title; and

(C) are located or primarily used at public-use airports;

(3) the payment of that portion of the cost of acquiring vehicles described in this subsection that exceeds the cost of acquiring other vehicles or engines that would be used for the same purpose; or

(4) the acquisition of technological capital equipment to enable the delivery of fuel and services necessary for the use of vehicles described in paragraph (1).

(Added Pub. L. 106–181, title I, § 133(a), Apr. 5, 2000, 114 Stat. 81.)

REFERENCES IN TEXT

Section 5506 of this title, referred to in subsec. (f)(2), was amended by Pub. L. 109–59 and no longer defines the term ''eligible consortium''.

The date of the enactment of this section, referred to in subsec. (h), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 47137. Airport security program

(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than one project to test and evaluate innovative aviation security systems and related technology.

(b) PRIORITY.—In carrying out this section, the Secretary shall give the highest priority to a request from an eligible sponsor for a grant to undertake a project that—

(1) evaluates and tests the benefits of innovative aviation security systems or related technology, including explosives detection systems, for the purpose of improving aviation and aircraft physical security, access control, and passenger and baggage screening; and

(2) provides testing and evaluation of airport security systems and technology in an operational, testbed environment.

(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government's share of allowable project costs for a project under this section shall be 100 percent.

(d) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions as the Secretary determines appropriate for carrying out a project under this section, including terms and conditions relating to the form and content of a proposal for a project, project assurances, and schedule of payments.

(e) ADMINISTRATION.—The Secretary, in cooperation with the Secretary of Homeland Security, shall administer the program authorized by this section.

(f) ELIGIBLE SPONSOR DEFINED.—In this section, the term ''eligible sponsor'' means a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems.

(g) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary under section 47115 in a fiscal year, the Secretary shall make available not less than $5,000,000 for the purpose of carrying out this section.

(Added Pub. L. 106–181, title I, § 134(a), Apr. 5, 2000, 114 Stat. 83; amended Pub. L. 108–176, title I, § 157, Dec. 12, 2003, 117 Stat. 2508.)

AMENDMENTS

2003—Subsecs. (e) to (g). Pub. L. 108–176 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

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

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 47138. Pilot program for purchase of airport development rights

(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly affecting the use of, privately owned public use airports located in that State. Under the program, the Secretary may make a grant to a State or political subdivision of a State from funds apportioned under section 47114 for the purchase of such rights.

(b) GRANT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the grant is made—

(A) to enable the State or political subdivision to purchase development rights in order to ensure that the airport property will continue to be available for use as a public airport; and

(B) subject to a requirement that the State or political subdivision acquire an easement or other appropriate covenant requiring that the airport shall remain a public use airport in perpetuity.

(2) MATCHING REQUIREMENT.—The amount of a grant under the program may not exceed 90 percent of the costs of acquiring the development rights.

(c) GRANT STANDARDS.—The Secretary shall prescribe standards for grants under subsection (a), including—

(1) grant application and approval procedures; and

(2) requirements for the content of the instrument recording the purchase of the development rights.

(d) RELEASE OF PURCHASED RIGHTS AND COVENANT.—Any development rights purchased

under the program shall remain the property of the State or political subdivision unless the Secretary approves the transfer or disposal of the development rights after making a determination that the transfer or disposal of that right is in the public interest.

(e) LIMITATION.—The Secretary may not make a grant under the pilot program for the purchase of development rights at more than 10 airports.

(Added Pub. L. 108–176, title I, § 152(a), Dec. 12, 2003, 117 Stat. 2506.)

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

§ 47139. Emission credits for air quality projects

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall issue guidance on how to ensure that airport sponsors receive appropriate emission reduction credits for carrying out projects described in sections 40117(a)(3)(G), 47102(3)(F), 47102(3)(K), and 47102(3)(L). Such guidance shall include, at a minimum, the following conditions:

(1) The provision of credits is consistent with the Clean Air Act (42 U.S.C. 7402 et seq.).

(2) Credits generated by the emissions reductions are kept by the airport sponsor and may only be used for purposes of any current or future general conformity determination under the Clean Air Act or as offsets under the Environmental Protection Agency's new source review program for projects on the airport or associated with the airport.

(3) Credits are calculated and provided to airports on a consistent basis nationwide.

(4) Credits are provided to airport sponsors in a timely manner.

(5) The establishment of a method to assure the Secretary that, for any specific airport project for which funding is being requested, the appropriate credits will be granted.

(b) ASSURANCE OF RECEIPT OF CREDITS.—As a condition for making a grant for a project described in section 47102(3)(F), 47102(3)(K), 47102(3)(L), or 47140 or as a condition for granting approval to collect or use a passenger facility fee for a project described in section 40117(a)(3)(G), 47103(3)(F), 47102(3)(K), 47102(3)(L), or 47140, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.

(c) PREVIOUSLY APPROVED PROJECTS.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall determine how to provide appropriate emissions credits to airport projects previously approved under section 47136 consistent with the guidance and conditions specified in subsection (a).

(d) STATE AUTHORITY UNDER CAA.—Nothing in this section shall be construed as overriding existing State law or regulation pursuant to section 116 of the Clean Air Act (42 U.S.C. 7416).

(Added Pub. L. 108–176, title I, § 158(a), Dec. 12, 2003, 117 Stat. 2508.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(1), (2), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

§ 47140. Airport ground support equipment emissions retrofit pilot program

(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount made available under section 48103 to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.—A commercial service airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a).

(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

(d) MAXIMUM AMOUNT.—Not more than $500,000 may be expended under the pilot program at any single commercial service airport.

(e) GUIDELINES.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under the pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

(f) ELIGIBLE EQUIPMENT DEFINED.—In this section, the term ''eligible equipment'' means ground service or maintenance equipment that is located at the airport, is used to support aeronautical and related activities at the airport, and will remain in operation at the airport for the life or useful life of the equipment, whichever is earlier.

(Added Pub. L. 108–176, title I, § 159(a)(1), Dec. 12, 2003, 117 Stat. 2509.)

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

§ 47141. Compatible land use planning and projects by State and local governments

(a) IN GENERAL.—The Secretary of Transportation may make grants, from amounts set aside under section 47117(e)(1)(A), to States and units of local government for development and implementation of land use compatibility plans and implementation of land use compatibility projects resulting from those plans for the purposes of making the use of land areas around large hub airports and medium hub airports compatible with aircraft operations. The Secretary may make a grant under this section for a land use compatibility plan or a project resulting from such plan only if—

(1) the airport operator has not submitted a noise compatibility program to the Secretary under section 47504 or has not updated such program within the preceding 10 years; and

(2) the land use plan or project meets the requirements of this section.

(b) ELIGIBILITY.—In order to receive a grant under this section, a State or unit of local government must—

(1) have the authority to plan and adopt land use control measures, including zoning, in the planning area in and around a large or medium hub airport;

(2) enter into an agreement with the airport owner or operator that the development of the land use compatibility plan will be done cooperatively; and

(3) provide written assurance to the Secretary that it will achieve, to the maximum extent possible, compatible land uses consistent with Federal land use compatibility criteria under section 47502(3) and that those compatible land uses will be maintained.

(c) ASSURANCES.—The Secretary shall require a State or unit of local government to which a grant may be made under this section for a land use plan or a project resulting from such plan to provide—

(1) assurances satisfactory to the Secretary that the plan—

(A) is reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses;

(B) addresses ways to achieve and maintain compatible land uses, including zoning, building codes, and any other land use compatibility measures under section 47504(a)(2) that are within the authority of the State or unit of local government to implement;

(C) uses noise contours provided by the airport operator that are consistent with the airport operation and planning, including any noise abatement measures adopted by the airport operator as part of its own noise mitigation efforts;

(D) does not duplicate, and is not inconsistent with, the airport operator's noise compatibility measures for the same area; and

(E) has been approved jointly by the airport owner or operator and the State or unit of local government; and

(2) such other assurances as the Secretary determines to be necessary to carry out this section.

(d) GUIDELINES.—The Secretary shall establish guidelines to administer this section in accordance with the purposes and conditions described in this section. The Secretary may require a State or unit of local government to which a grant may be made under this section to provide progress reports and other information as the Secretary determines to be necessary to carry out this section.

(e) ELIGIBLE PROJECTS.—The Secretary may approve a grant under this section to a State or unit of local government for a project resulting from a land use compatibility plan only if the Secretary is satisfied that the project is consistent with the guidelines established by the Secretary under this section, the State or unit of local government has provided the assurances required by this section, the State or unit of local government has implemented (or has made provision to implement) those elements of the plan that are not eligible for Federal financial assistance, and that the project is not inconsistent with applicable Federal Aviation Administration standards.

(f) SUNSET.—This section shall not be in effect after September 30, 2007.

(Added Pub. L. 108–176, title I, § 160(a), Dec. 12, 2003, 117 Stat. 2511.)

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

§ 47142. Design-build contracting

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if—

(1) the Administrator approves the application using criteria established by the Administrator;

(2) the design-build contract is in a form that is approved by the Administrator;

(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

(4) use of a design-build contract will be cost effective and expedite the project;

(5) the Administrator is satisfied that there will be no conflict of interest; and

(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least 3 or more bids will be submitted for each project under the selection process.

(b) REIMBURSEMENT OF COSTS.—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under this chapter if the project were carried out after a grant agreement had been executed.

(c) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term ''design-build contract'' means an agreement that provides for both design and construction of a project by a contractor.

(Added Pub. L. 108–176, title I, § 181(a), Dec. 12, 2003, 117 Stat. 2515.)

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

§ 47151. Authority to transfer an interest in surplus property

(a) GENERAL AUTHORITY.—Subject to sections 47152 and 47153 of this title, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may convey to a State, political subdivision of a State, or tax-supported organization any interest in surplus property—

(1) that the Secretary of Transportation decides is—

(A) desirable for developing, improving, operating, or maintaining a public airport (as defined in section 47102 of this title);

(B) reasonably necessary to fulfill the immediate and foreseeable future requirements for developing, improving, operating, or maintaining a public airport; or

(C) needed for developing sources of revenue from nonaviation businesses at a public airport; and

(2) if the Administrator of General Services approves the conveyance and decides the interest is not best suited for industrial use.

(b) ENSURING COMPLIANCE.—Only the Secretary may ensure compliance with an instrument conveying an interest in surplus property under this subchapter. The Secretary may amend the instrument to correct the instrument or to make the conveyance comply with law.

(c) DISPOSING OF INTERESTS NOT CONVEYED UNDER THIS SUBCHAPTER.—An interest in surplus property that could be used at a public airport but that is not conveyed under this subchapter shall be disposed of under other applicable law.

(d) WAIVER OF CONDITION.—Before the Secretary may waive any condition imposed on an interest in surplus property conveyed under subsection (a) that such interest be used for an aeronautical purpose, the Secretary must provide notice to the public not less than 30 days before waiving such condition.

(e) REQUESTS BY PUBLIC AGENCIES.—Except with respect to a request made by another department, agency, or instrumentality of the executive branch of the United States Government, such a department, agency, or instrumentality shall give priority consideration to a request made by a public agency (as defined in section 47102) for surplus property described in subsection (a) (other than real property that is subject to section 2687 of title 10, section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), or section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note)) for use at a public airport.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1278; Pub. L. 106–181, title I, §§ 125(c), 135(d)(1), 136, Apr. 5, 2000, 114 Stat. 75, 84, 85.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47151(a)	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
	50 App.:1622(g)(1).	Oct. 3, 1944, ch. 479, 58 Stat. 765, § 13(g)(1); added July 30, 1947, ch. 404, § 2, 61 Stat. 678; Aug. 23, 1958, Pub. L. 85–726, § 1402(c), 72 Stat. 807; May 21, 1970, Pub. L. 91–258, § 52(b)(6), 84 Stat. 235; Sept. 3, 1982, Pub. L. 97–248, § 524(c), 96 Stat. 696.
47151(b)	49 App.:1655(c)(1). 50 App.:1622b.	Oct. 1, 1949, ch. 589, § 3, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, § 1402(c), 72 Stat. 807.
47151(c)	50 App.:1622(g)(5), (6).	Oct. 3, 1944, ch. 479, 58 Stat. 765, § 13(g)(5), (6); added July 30, 1947, ch. 404, § 2, 61 Stat. 680.

In subsection (a), before clause (1), the words ''Notwithstanding any other provision of this Act'' are omitted as surplus. The words ''Subject to sections 47152 and 47153 of this title'' are substituted for ''but subject to the terms, conditions, reservations, and restrictions hereinafter provided for'' to eliminate unnecessary words. The words ''a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation'' are substituted for ''any disposal agency designated pursuant to this Act'' for clarity because disposal agencies were Government agencies designated under 50 App.:1619(a), that was repealed by section 602(a)(1) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 399), and Government agencies were all departments, agencies, and instrumentalities of the executive branch of the United States Government and wholly owned Government corporations. The word ''give'' is substituted for ''convey or dispose of . . . without monetary consideration to the United States'', to eliminate unnecessary words. The word ''municipality'' is omitted as being included in ''political subdivision''. The words ''of a State'' are added for clarity and consistency in the revised title and with other titles of the United States Code. The word ''organization'' is substituted for ''institution'' for consistency in the revised title. The words ''all of the right, title, and . . . of the United States . . . and to . . . real or personal'' are omitted as surplus. In clause (1)(A), the words ''essential, suitable, or'' are omitted as surplus. In clause (1)(B), the words ''of the grantee'' are omitted as surplus. In clause (2), the words ''Administrator of General Services'' are substituted for ''[War Assets] Administrator'' in section 13(g)(1) of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) because of section 105 of the Federal Property

and Administrative Services Act of 1949 (ch. 288, 63 Stat. 381). The words ''and decides the interest is not best suited for industrial use'' are substituted for ''(exclusive of property the highest and best use of which is determined by the Administrator of General Services to be industrial and which shall be so classified for disposal without regard to the provisions of this subsection)'' to eliminate unnecessary words.

Subsection (b) is substituted for 50 App.:1622b to eliminate unnecessary words.

In subsection (c), the text of 50 App.:1622(g)(5) is omitted as obsolete because 50 App.:1621, 1622(f), and 1627(e) were repealed by section 602(a)(1) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 399). The words ''An interest in surplus property that could be used at a public airport'' are substituted for ''All surplus property within the purview of this subsection'' for clarity. The words ''elsewhere in this Act or other applicable'' are omitted as surplus. The word ''law'' is substituted for ''Federal Statute'' for consistency in the revised title and with other titles of the Code.

REFERENCES IN TEXT

Section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (e), is section 201 of Pub. L. 100–526, which is set out in a note under section 2687 of Title 10, Armed Forces.

Section 2905 of the Defense Base Closure and Realignment Act of 1990, referred to in subsec. (e), is section 2905 of Pub. L. 101–510, which is set out in a note under section 2687 of Title 10, Armed Forces.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–181, § 135(d)(1)(A)(i), substituted ''convey to'' for ''give'' in introductory provisions.

Subsec. (a)(2). Pub. L. 106–181, § 135(d)(1)(A)(ii), substituted ''conveyance'' for ''gift''.

Subsec. (b). Pub. L. 106–181, § 135(d)(1)(B), substituted ''conveying'' for ''giving'' and ''conveyance'' for ''gift''.

Subsec. (c). Pub. L. 106–181, § 135(d)(1)(C), substituted ''Conveyed'' for ''Given'' in heading and ''conveyed'' for ''given'' in text.

Subsec. (d). Pub. L. 106–181, § 125(c), added subsec. (d).

Subsec. (e). Pub. L. 106–181, § 136, added subsec. (e).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

CONSTRUCTION OF 2000 AMENDMENT

Nothing in amendment by section 125(c) of Pub. L. 106–181 to be construed to authorize Secretary of Transportation to issue waiver or make a modification referred to in such amendment, see section 125(e) of Pub. L. 106–181, set out as a note under section 47107 of this title.

§ 47152. Terms of conveyances

Except as provided in section 47153 of this title, the following terms apply to a conveyance of an interest in surplus property under this subchapter:

(1) A State, political subdivision of a State, or tax-supported organization receiving the interest may use, lease, salvage, or dispose of the interest for other than airport purposes only after the Secretary of Transportation gives written consent that the interest can be used, leased, salvaged, or disposed of without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which the property is located.

(2) The interest shall be used and maintained for public use and benefit without unreasonable discrimination.

(3) A right may not be vested in a person, excluding others in the same class from using the airport at which the property is located—

(A) to conduct an aeronautical activity requiring the operation of aircraft; or

(B) to engage in selling or supplying aircraft, aircraft accessories, equipment, or supplies (except gasoline and oil), or aircraft services necessary to operate aircraft (including maintaining and repairing aircraft, aircraft engines, propellers, and appliances).

(4) The State, political subdivision, or tax-supported organization accepting the interest shall clear and protect the aerial approaches to the airport by mitigating existing, and preventing future, airport hazards.

(5) During a national emergency declared by the President or Congress, the United States Government is entitled to use, control, or possess, without charge, any part of the public airport at which the property is located. However, the Government shall—

(A) pay the entire cost of maintaining the part of the airport it exclusively uses, controls, or possesses during the emergency;

(B) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining the property it uses nonexclusively, or over which the Government has nonexclusive control or possession, during the emergency; and

(C) pay a fair rental for use, control, or possession of improvements to the airport made without Government assistance.

(6) The Government is entitled to the nonexclusive use, without charge, of the landing area of an airport at which the property is located. The Secretary may limit the use of the landing area if necessary to prevent unreasonable interference with use by other authorized aircraft. However, the Government shall—

(A) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining and operating the landing area; and

(B) pay for damages caused by its use of the landing area if its use of the landing area is substantial.

(7) The State, political subdivision, or tax-supported organization accepting the interest shall release the Government from all liability for damages arising under an agreement that provides for Government use of any part of an airport owned, controlled, or operated by the State, political subdivision, or tax-supported organization on which, adjacent to which, or in connection with which, the property is located.

(8) When a term under this section is not satisfied, any part of the interest in the property reverts to the Government, at the option of the Government, as the property then exists.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1279; Pub. L. 106–181, title I, § 135(d)(2), Apr. 5, 2000, 114 Stat. 85.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47152	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
	50 App.:1622(g)(2).	Oct. 3, 1944, ch. 479, 58 Stat. 765, § 13(g)(2); added July 30, 1947, ch. 404, § 2, 61 Stat. 678; Oct. 1, 1949, ch. 589, § 1, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, § 1402(c), 72 Stat. 807.

In this section, before paragraph (1), the words ''conditions, reservations, and restrictions'' and ''the authority of'' are omitted as surplus. In paragraph (1), the words ''A State, political subdivision of a State, or tax-supported organization receiving the interest'' are substituted for ''grantee or transferee'' for clarity. The words ''sold'' and ''disposed of under the authority of this subsection'' are omitted as surplus. In paragraph (2), the words ''transferred for airport purposes'' are omitted as surplus. In paragraph (3), before clause (A), the words ''For the purpose of this condition, an exclusive right is defined to mean'' and ''any exclusive right to'' are omitted because of the restatement. The words ''exclusive'' and ''(either directly or indirectly)'' are omitted as surplus. The words ''or persons'' are omitted because of 1:1. The words ''disposed of'' are omitted as surplus. In clause (A), the word ''particular'' is omitted as surplus. In paragraph (4), the words ''removing, lowering, relocating, marking, or lighting or otherwise'' and ''the establishment or creation of'' are omitted as surplus. In paragraphs (5)–(7), the words ''or used'' are omitted as surplus. In paragraph (5), before clause (A), the words ''exclusive or nonexclusive'' and ''as it may desire'' are omitted as surplus. In clause (A), the word ''pay'' is substituted for ''be responsible for'' to eliminate unnecessary words. The words ''during the emergency'' are substituted for ''during the period of such use, possession, or control'' to eliminate unnecessary words and for clarity. In clause (B), the words ''be obligated to'' are omitted as surplus. The words ''during the emergency'' are added for clarity. In clause (C), the words ''exclusively or nonexclusively'' are omitted as surplus. In paragraph (6), before clause (A), the words ''as may be determined at any time'' are omitted as surplus. In clause (B), the words ''be obligated to'' are omitted as surplus. In paragraph (7), the words ''The State, political subdivision, or tax-supported organization accepting the interest'' are substituted for ''Any public agency accepting a conveyance or transfer of surplus property under the provisions of this subsection'' to eliminate unnecessary words and for consistency in this section. The words ''any and . . . it may be under for restoration or other . . lease or other'' are omitted as surplus. The text of 50 App.:1622(g)(2)(G) (proviso) is omitted because 49 App.:1116 was repealed by section 52(a) of the Airport and Airway Development Act of 1970 (Public Law 91–258, 84 Stat. 235). Paragraph (8) is substituted for 50 App.:1622(g)(2)(H) to eliminate unnecessary words.

AMENDMENTS

2000—Pub. L. 106–181 substituted ''conveyances'' for ''gifts'' in section catchline and ''conveyance'' for ''gift'' in introductory provisions.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 47153. Waiving and adding terms

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation may waive, without charge, a term of a conveyance of an interest in property under this subchapter if the Secretary decides that—

(A) the property no longer serves the purpose for which it was conveyed; or

(B) the waiver will not prevent carrying out the purpose for which the conveyance was made and is necessary to advance the civil aviation interests of the United States.

(2) The Secretary of Transportation shall waive a term under paragraph (1) of this subsection on terms the Secretary considers necessary to protect or advance the civil aviation interests of the United States.

(b) WAIVERS AND INCLUSION OF ADDITIONAL TERMS ON REQUEST.—On request of the Secretary of Transportation or the Secretary of a military department, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may waive a term required by section 47152 of this title or add another term if the appropriate Secretary decides it is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

(c) PUBLIC NOTICE BEFORE WAIVER.—Notwithstanding subsections (a) and (b), before the Secretary may waive any term imposed under this section that an interest in land be used for an aeronautical purpose, the Secretary must provide notice to the public not less than 30 days before waiving such term.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1280; Pub. L. 106–181, title I, §§ 125(d), 135(d)(3), Apr. 5, 2000, 114 Stat. 76, 85.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47153(a)	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
	50 App.:1622c.	Oct. 1, 1949, ch. 589, § 4, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, § 1402(c), 72 Stat. 807.
47153(b)	49 App.:1655(c)(1). 50 App.:1622(g)(3).	Oct. 3, 1944, ch. 479, 58 Stat. 765, § 13(g)(3); added July 30, 1947, ch. 404, § 2, 61 Stat. 680; Aug. 23, 1958, Pub. L. 85–726, § 1402(c), 72 Stat. 807.

In subsection (a), before clause (1), the words ''Notwithstanding any other provision of law'' and ''further'' are omitted as surplus. The word ''waive'' is substituted for ''grant releases from'' and ''and to convey, quitclaim, or release any right or interest reserved to the United States by'' to eliminate unnecessary words. The words ''a term of a gift of an interest in property under this subchapter'' are substituted for ''any of the terms, conditions, reservations, and restrictions contained in . . . any such instrument of disposal'' for clarity and consistency. In clause (1), the words ''transferred by such instrument'' are omitted as surplus. In clause (2), the text of 50 App.:1622c (last proviso) is omitted as executed. The words ''protect or'' are omitted as surplus.

In subsection (b), the words ''In making any disposition of surplus property under this subsection'' are omitted as surplus. The words ''Secretary of a military department'' are substituted for ''the Secretary of the Army, or the Secretary of the Navy'' for consistency with other titles of the United States Code and to eliminate unnecessary words. The words ''Secretary of

the Army'' are substituted for ''Secretary of War'' in section 13(g)(3) of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) because of section 205(a) of the National Security Act of 1947 (ch. 343, 61 Stat. 501). The Secretary of the Air Force is included in ''Secretary of a military department'' because of section 207(a) and (f) of the National Security Act of 1947 (ch. 343, 61 Stat. 502, 503). The word ''waive'' is substituted for ''omit from the instrument of disposal'' to eliminate unnecessary words and for consistency in this subchapter. The words ''conditions, reservations, and restrictions'' are omitted as surplus.

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–181, §135(d)(3), substituted ''conveyance'' for ''gift'' in introductory provisions and subpar. (B) and ''conveyed'' for ''given'' in subpar. (A).

Subsec. (c). Pub. L. 106–181, §125(d), added subsec. (c).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

CONSTRUCTION OF 2000 AMENDMENT

Nothing in amendment by section 125(d) of Pub. L. 106–181 to be construed to authorize Secretary of Transportation to issue waiver or make a modification referred to in such amendment, see section 125(e) of Pub. L. 106–181, set out as a note under section 47107 of this title.

SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING

§47171. Expedited, coordinated environmental review process

(a) AVIATION PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement an expedited and coordinated environmental review process for airport capacity enhancement projects at congested airports, aviation safety projects, and aviation security projects that—

(1) provides for better coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) provides that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for such a project will be conducted concurrently, to the maximum extent practicable; and

(3) provides that any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal agency or airport sponsor for such a project will be completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (d) with respect to the project.

(b) AVIATION PROJECTS SUBJECT TO A STREAMLINED ENVIRONMENTAL REVIEW PROCESS.—

(1) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—An airport capacity enhancement project at a congested airport shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(2) AVIATION SAFETY AND AVIATION SECURITY PROJECTS.—

(A) IN GENERAL.—The Administrator of the Federal Aviation Administration may designate an aviation safety project or aviation security project for priority environmental review. The Administrator may not delegate this designation authority. A designated project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(B) PROJECT DESIGNATION CRITERIA.—The Administrator shall establish guidelines for the designation of an aviation safety project or aviation security project for priority environmental review. Such guidelines shall provide for consideration of—

(i) the importance or urgency of the project;

(ii) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(iii) the need for cooperation and concurrent reviews by other Federal or State agencies;

(iv) the prospect for undue delay if the project is not designated for priority review; and

(v) for aviation security projects, the views of the Department of Homeland Security.

(c) HIGH PRIORITY OF AND AGENCY PARTICIPATION IN COORDINATED REVIEWS.—

(1) HIGH PRIORITY FOR ENVIRONMENTAL REVIEWS.—Each Federal agency with jurisdiction over an environmental review, analysis, opinion, permit, license, or approval shall accord any such review, analysis, opinion, permit, license, or approval involving an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2) the highest possible priority and conduct the review, analysis, opinion, permit, license, or approval expeditiously.

(2) AGENCY PARTICIPATION.—Each Federal agency described in subsection (d) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to participate in the coordinated environmental review process under this section and to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in subsection (a) in a timely and environmentally responsible manner.

(d) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to each airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2), the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

(e) STATE AUTHORITY.—Under a coordinated review process being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the Governor of the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

(f) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (d) with respect to the project and, if applicable, the airport sponsor.

(g) USE OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAMS.—

(1) IN GENERAL.—The Secretary may utilize an interagency environmental impact statement team to expedite and coordinate the coordinated environmental review process for a project under this section. When utilizing an interagency environmental impact statement team, the Secretary shall invite Federal, State and Tribal agencies with jurisdiction by law, and may invite such agencies with special expertise, to participate on an interagency environmental impact statement team.

(2) RESPONSIBILITY OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAM.—Under a coordinated environmental review process being implemented under this section, the interagency environmental impact statement team shall assist the Federal Aviation Administration in the preparation of the environmental impact statement. To facilitate timely and efficient environmental review, the team shall agree on agency or Tribal points of contact, protocols for communication among agencies, and deadlines for necessary actions by each individual agency (including the review of environmental analyses, the conduct of required consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals). The members of the team may formalize their agreement in a written memorandum.

(h) LEAD AGENCY RESPONSIBILITY.—The Federal Aviation Administration shall be the lead agency for projects designated under subsection (b)(2) and airport capacity enhancement projects at congested airports and shall be responsible for defining the scope and content of the environmental impact statement, consistent with regulations issued by the Council on Environmental Quality. Any other Federal agency or State agency that is participating in a coordinated environmental review process under this section shall give substantial deference, to the extent consistent with applicable law and policy, to the aviation expertise of the Federal Aviation Administration.

(i) EFFECT OF FAILURE TO MEET DEADLINE.—

(1) NOTIFICATION OF CONGRESS AND CEQ.— If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (a)(3) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

(j) PURPOSE AND NEED.—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

(k) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2). Any other Federal agency, or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

(*l*) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (j) and (k), the Secretary shall solicit and consider comments from interested persons and governmental entities in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4371[1] et seq.).

(m) MONITORING BY TASK FORCE.—The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section.

(Added Pub. L. 108–176, title III, § 304(a), Dec. 12, 2003, 117 Stat. 2534.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1), (b)(2)(B)(ii), and (*l*), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is

[1] So in original. Probably should be ''4321''.

classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Executive Order No. 13274, referred to in subsec. (m), is set out as a note under section 301 of this title.

EFFECTIVE DATE

Subchapter 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 an Effective Date of 2003 Amendment note under section 106 of this title.

FINDINGS

Pub. L. 108–176, title III, § 302, Dec. 12, 2003, 117 Stat. 2533, provided that: ''Congress finds that—

''(1) airports play a major role in interstate and foreign commerce;

''(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

''(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

''(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

''(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.''

LIMITATIONS

Pub. L. 108–176, title III, § 308, Dec. 12, 2003, 117 Stat. 2539, provided that: ''Nothing in this subtitle [subtitle A (§§ 301–309) of title III of Pub. L. 108–176, enacting this subchapter, amending sections 40104, 47106, and 47504 of this title, and enacting provisions set out as notes under this section], including any amendment made by this title [enacting this subchapter and amending sections 40104, 40128, 47106, 47503, and 47504 of this title], shall preempt or interfere with—

''(1) any practice of seeking public comment;

''(2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and

''(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 [4321] et seq.) and the regulations issued by the Council on Environmental Quality to carry out such Act.''

RELATIONSHIP TO OTHER REQUIREMENTS

Pub. L. 108–176, title III, § 309, Dec. 12, 2003, 117 Stat. 2540, provided that: ''The coordinated review process required under the amendments made by this subtitle [enacting this subchapter and amending sections 40104, 47106, and 47504 of this title] shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 [49 U.S.C. 301 note] (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews).''

§ 47172. Air traffic procedures for airport capacity enhancement projects at congested airports

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of an airport capacity enhancement project at a congested airport that involves the construction of new runways or the reconfiguration of existing runways during the environmental planning process for the project. If the Administrator determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, the Administrator may commit, at the request of the airport sponsor and in a manner consistent with applicable Federal law, to prescribing such procedures in any record of decision approving the project.

(b) MODIFICATION.—Notwithstanding any commitment by the Administrator under subsection (a), the Administrator may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

(Added Pub. L. 108–176, title III, § 304(a), Dec. 12, 2003, 117 Stat. 2537.)

§ 47173. Airport funding of FAA staff

(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.

(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

(3) shall remain available until expended.

(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002 (excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862)) for the activities described in subsection (a).

(Added Pub. L. 108–176, title III, § 304(a), Dec. 12, 2003, 117 Stat. 2537.)

REFERENCES IN TEXT

Section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002, referred to

in subsec. (d), is section 337 of Pub. L. 107–87, Dec. 18, 2001, 115 Stat. 862, which is not classified to the Code.

§ 47174. Authorization of appropriations

In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $4,200,000 for fiscal year 2004 and for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

(Added Pub. L. 108–176, title III, § 304(a), Dec. 12, 2003, 117 Stat. 2538.)

§ 47175. Definitions

In this subchapter, the following definitions apply:

(1) AIRPORT SPONSOR.—The term ''airport sponsor'' has the meaning given the term ''sponsor'' under section 47102.

(2) CONGESTED AIRPORT.—The term ''congested airport'' means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report 2001.

(3) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term ''airport capacity enhancement project'' means—

(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.

(4) AVIATION SAFETY PROJECT.—The term ''aviation safety project'' means an aviation project that—

(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator; and

(B)(i) is needed to respond to a recommendation from the National Transportation Safety Board, as determined by the Administrator; or

(ii) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

(5) AVIATION SECURITY PROJECT.—The term ''aviation security project'' means a security project at an airport required by the Department of Homeland Security.

(6) FEDERAL AGENCY.—The term ''Federal agency'' means a department or agency of the United States Government.

(Added Pub. L. 108–176, title III, § 304(a), Dec. 12, 2003, 117 Stat. 2538.)

CHAPTER 473—INTERNATIONAL AIRPORT FACILITIES

Sec.
47301. Definitions.
47302. Providing airport and airway property in foreign territories.
47303. Training foreign citizens.
47304. Transfer of airport and airway property.
47305. Administrative.
47306. Criminal penalty.

§ 47301. Definitions

In this chapter—

(1) ''airport property'' means an interest in property used or useful in operating and maintaining an airport.

(2) ''airway property'' means an interest in property used or useful in operating and maintaining a ground installation, facility, or equipment desirable for the orderly and safe operation of air traffic, including air navigation, air traffic control, airway communication, and meteorological facilities.

(3) ''foreign territory'' means an area—

(A) over which no government or a government of a foreign country has sovereignty;

(B) temporarily under military occupation by the United States Government; or

(C) occupied or administered by the Government or a government of a foreign country under an international agreement.

(4) ''territory outside the continental United States'' means territory outside the 48 contiguous States and the District of Columbia.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1280.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47301(1)–(3)	49 App.:1151.	June 16, 1948, ch. 473, § 2, 62 Stat. 450; Aug. 23, 1958, Pub. L. 85–726, § 1403, 72 Stat. 808.
47301(4)	(no source).	

In this section, the words ''the purposes of'' and ''The term'' are omitted as surplus.

In clauses (1) and (2), the words ''real or personal'', ''directly or indirectly'', ''administration'', and ''(including parts and components thereof)'' are omitted as surplus.

In clause (1), the words ''including . . . (1) land; (2) runways, strips, taxiways, and parking aprons; (3) buildings, structures, improvements, and facilities, whether or not used in connection with the landing and take-off of aircraft; and (4) equipment . . . furniture, vehicles, and supplies'' are omitted as being included in ''an interest in property''.

In clause (2), the words ''necessary or'' are omitted as surplus.

In clause (3), before subclause (A), the words ''of land or water'' are omitted as surplus. In subclause (A), the words ''no government or a government of a foreign country'' are substituted for ''no nation or a nation other than the United States'' for consistency in the revised title and with other titles of the United States Code. The words ''(including territory of undetermined sovereignty and the high seas)'' are omitted as surplus. In subclause (C), the words ''government of a foreign country'' are substituted for ''other nation'' for consistency in the revised title and with other titles of the Code.

Clause (4) is derived from the source provisions of the chapter and is included to avoid repeating the phrase ''territory (including Alaska) outside the continental limits of the United States''.

§ 47302. Providing airport and airway property in foreign territories

(a) GENERAL AUTHORITY.—Subject to the concurrence of the Secretary of State and the consideration of objectives of the International Civil Aviation Organization—

(1) the Secretary of Transportation may acquire, establish, and construct airport property and airway property (except meteorological facilities) in foreign territory; and

(2) the Secretary of Commerce may acquire, establish, and construct meteorological facilities in foreign territory.

(b) SPECIFIC APPROPRIATIONS REQUIRED.—Except for airport property transferred under section 47304(b) of this title, an airport (as defined in section 40102(a) of this title) may be acquired, established, or constructed under subsection (a) of this section only if amounts have been appropriated specifically for the airport.

(c) ACCEPTING FOREIGN PAYMENTS.—The Secretary of Transportation or Commerce, as appropriate, may accept payment from a government of a foreign country or international organization for facilities or services sold or provided the government or organization under this chapter. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47302(a), (b)	49 App.:1152.	June 16, 1948, ch. 473, § 3, 62 Stat. 451; Aug. 23, 1958, Pub. L. 85–726, § 1403, 72 Stat. 808.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
47302(c)	49 App.:1154.	June 16, 1948, ch. 473, § 5, 62 Stat. 451.
	49 App.:1655(c)(1).	

In this chapter, the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the United States Code.

In this section, the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau of the Department of Commerce'' in section 3, and ''Chief of the Weather Bureau'' in section 5, of the International Aviation Facilities Act (ch. 473, 62 Stat. 451) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), the words ''by contract or otherwise'' are omitted as surplus. The words ''airport property and airway property (except meteorological facilities)'' and ''meteorological facilities'' are substituted for ''within their respective fields'' for clarity.

In subsection (b), the words ''for the airport'' are substituted for ''for such purpose'' for clarity. The words ''by the Congress'' are omitted as surplus.

In subsection (c), the words ''on behalf of the United States'' are omitted as surplus. The words ''sold or provided'' are substituted for ''supplied or . . . performed'' for consistency in this chapter. The words ''by the Secretary of Transportation or the Secretary of Commerce, either directly or indirectly'' and ''the authority of'' are omitted as surplus. The words ''or the Civil Aeronautics Act of 1938, as amended'' are omitted as obsolete because the Act was repealed by section 1401(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 806). The words ''including the operation of airport property and airway property in such countries, the training of foreign nationals, the rendering of technical assistance and advice to such countries, and the performance of other similar services'' are omitted as being included in ''facilities or services sold or provided''. The words ''or both'' are substituted for ''or (C) in part as provided under clause (A) and in part as provided under clause (B)'' to eliminate unnecessary words.

§ 47303. Training foreign citizens

Subject to the concurrence of the Secretary of State, the Secretary of Transportation or Commerce, as appropriate, may train a foreign citizen in a subject related to aeronautics and essential to the orderly and safe operation of civil aircraft. The training may be provided—

(1) directly by the appropriate Secretary or jointly with another department, agency, or instrumentality of the United States Government;

(2) through a public or private agency of the United States (including a State or municipal educational institution); or

(3) through an international organization.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47303	49 App.:1153.	June 16, 1948, ch. 473, § 4, 62 Stat. 451.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, before clause (1), the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau'' in section 4 of the International Aviation Facilities Act (ch. 473, 62 Stat. 451) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318). The words ''within or outside the United States'' are omitted as surplus. The word ''citizen'' is substituted for ''nationals'' as being more appropriate. In clause (1), the word ''jointly'' is substituted for ''or in conjunction'' to eliminate unnecessary words. The words ''department, agency, or instrumentality of the United States Government'' are substituted for ''United States Government agency'' for consistency in the revised title and with other titles of the United States Code.

§ 47304. Transfer of airport and airway property

(a) GENERAL AUTHORITY.—When requested by the government of a foreign country or an international organization, the Secretary of Transportation or Commerce, as appropriate, may transfer to the government or organization airport property and airway property operated and maintained under this chapter by the appropriate Secretary in foreign territory. The transfer shall be on terms the appropriate Secretary considers proper, including consideration agreed on through negotiations with the government or organization.

(b) PROPERTY INSTALLED OR CONTROLLED BY MILITARY.—Subject to terms to which the parties agree, the Secretary of a military department may transfer without charge to the Secretary of Transportation airport property and

airway property (except meteorological facilities), and to the Secretary of Commerce meteorological facilities, that the Secretary of the military department installed or controls in territory outside the continental United States. The transfer may be made if consistent with the needs of national defense and—

(1) the Secretary of the military department finds that the property or facility is no longer required exclusively for military purposes; and

(2) the Secretary of Transportation or Commerce, as appropriate, decides that the transfer is or may be necessary to carry out this chapter.

(c) REPUBLIC OF PANAMA.—(1) The Secretary of Transportation may provide, operate, and maintain facilities and services for air navigation, airway communications, and air traffic control in the Republic of Panama subject to—

(A) the approval of the Secretary of Defense; and

(B) each obligation assumed by the United States Government under an agreement between the Government and the Republic of Panama.

(2) The Secretary of a military department may transfer without charge to the Secretary of Transportation property located in the Republic of Panama when the Secretary of Transportation decides that the transfer may be useful in carrying out this chapter.

(3) Subsection (b) of this section (related to the Secretary of Transportation) and section 47302(a) and (b) of this title do not apply in carrying out this subsection.

(d) RETAKING PROPERTY FOR MILITARY REQUIREMENT.—(1) When necessary for a military requirement, the Secretary of a military department immediately may retake property (with any improvements to it) transferred by the Secretary under subsection (b) or (c) of this section. The Secretary shall pay reasonable compensation to each person (or its successor in interest) that made an improvement to the property that was not made at the expense of the Government. The Secretary or a delegate of the Secretary shall decide on the amount of compensation.

(2) On the recommendation of the Secretary of Transportation or Commerce, as appropriate, the Secretary of a military department may decide not to act under paragraph (1) of this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47304(a)	49 App.:1155.	June 16, 1948, ch. 473, §§6, 8(a), (b), 62 Stat. 452; Aug. 23, 1958, Pub. L. 85–726, § 1403, 72 Stat. 808.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
47304(b)	49 App.:1157(a), (b).	
	49 App.:1655(c)(1).	
47304(c)(1) ..	49 App.:1156(a), (b).	June 16, 1948, ch. 473, §§7, 9, 62 Stat. 452, 453.
	49 App.:1655(c)(1).	
47304(c)(2) ..	49 App.:1156(c).	
	49 App.:1655(c)(1).	
47304(c)(3) ..	49 App.:1156(d).	
47304(d)	49 App.:1158.	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1655(c)(1).	

In this section, the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau'' in sections 6, 8, and 9 of the International Aviation Facilities Act (ch. 473, 62 Stat. 452) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), the words ''including consideration agreed on'' are substituted for ''including provision for receiving, on behalf of the United States, such payment or other consideration for the property so transferred as may be agreed upon'' to eliminate unnecessary words.

In subsections (b) and (c), the words ''Secretary of a military department'' are substituted for ''National Military Establishment'' (subsequently changed to ''department of the Department of Defense'' because of section 12(a) of the National Security Act Amendments of 1949 (ch. 412, 63 Stat. 591)) because of 5:102 and 10:101.

In subsection (b), before clause (1), the words ''if any, as may be . . . in specific cases'', ''at its discretion'', and ''therefor'' are omitted as surplus. The word ''except'' is substituted for ''exclusive of'' for consistency in this chapter. The word ''controls'' is substituted for ''in the possession of'' for clarity. The word ''considered'' is omitted as surplus. In clause (2), the words ''the purposes of'' are omitted as surplus.

In subsection (c), reference to the Canal Zone is omitted because of the Panama Canal Treaty of 1977.

In subsection (c)(1), before clause (A), the words ''and to do all things necessary in connection with the'' are omitted as surplus. The word ''airway'' is added for consistency in this chapter. In clause (B), the words ''treaty, convention, or'' are omitted as surplus.

In subsection (c)(2), the words ''in its discretion'', ''therefor'', ''airport property or airway property or other real or personal'', and ''the purposes of'' are omitted as surplus.

In subsection (d)(1), the words ''as determined by the Secretary of the department which made the transfer'' are omitted as surplus. The words ''(with any improvements to it)'' are substituted for ''together with any improvements or additions made thereto'' to eliminate unnecessary words. The words ''or persons'' are omitted because of 1:1.

In subsection (d)(2), the words ''decide not to act'' are substituted for ''in any case . . . waive any right or privilege conferred or reserved'' to eliminate unnecessary words.

§ 47305. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Transportation shall consolidate, operate, protect, maintain, and improve airport property and airway property (except meteorological facilities), and the Secretary of Commerce may consolidate, operate, protect, maintain, and improve meteorological facilities, that the appropriate Secretary has acquired and that are located in territory outside the continental United States. In carrying out this section, the appropriate Secretary may—

(1) adapt the property or facility to the needs of civil aeronautics;

(2) lease the property or facility for not more than 20 years;

(3) make a contract, or provide directly, for facilities and services;

(4) make reasonable charges for aeronautical services; and

(5) acquire an interest in property.

(b) CREDITING APPROPRIATIONS.—Money received from the direct sale or charge that the

Secretary of Transportation or Commerce, as appropriate, decides is equivalent to the cost of facilities and services sold or provided under subsection (a)(3) and (4) of this section is credited to the appropriation from which the cost was paid. The balance shall be deposited in the Treasury as miscellaneous receipts.

(c) USING OTHER GOVERNMENT FACILITIES AND SERVICES.—To carry out this chapter and to use personnel and facilities of the United States Government most advantageously and without unnecessary duplication, the Secretary of Transportation or Commerce, as appropriate, shall request, when practicable, to use a facility or service of an appropriate department, agency, or instrumentality of the Government on a reimbursable basis. A department, agency, or instrumentality receiving a request under this section may provide the facility or service.

(d) ADVERTISING NOT REQUIRED.—Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply to a lease or contract made by the Secretary of Transportation or Commerce under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1282.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47305(a)	49 App.:1159(a) (1st sentence), (b).	June 16, 1948, ch. 473, § 10(a) (1st sentence), (b)–(d), 62 Stat. 453, 454.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
47305(b)	49 App.:1159(c).	
	49 App.:1655(c)(1).	
47305(c)	49 App.:1160.	June 16, 1948, ch. 473, § 12, 62 Stat. 454; Aug. 23, 1958, Pub. L. 85–726, § 1403, 72 Stat. 808; Jan. 3, 1975, Pub. L. 93–623, § 3, 88 Stat. 2103.
	49 App.:1655(c)(1).	
47305(d)	49 App.:1159(d).	
	49 App.:1655(c)(1).	

In this section, the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau'' in section 10(b)–(d), and for ''Chief of the Weather Bureau'' and ''Weather Bureau'' in section 12, of the International Aviation Facilities Act (ch. 473, 62 Stat. 454) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), before clause (1), the words ''do and perform, by contract or otherwise, all acts and things necessary or incident to'' and ''pursuant to this chapter or any other provision of law'' are omitted as surplus. In clause (1), the words ''from time to time'' and ''by construction, installation, reengineering, relocation, or otherwise'' are omitted as surplus. The text of 49 App.:1159(a)(2) is omitted as surplus because of 49:322(a). In clause (2), the words ''under such conditions as he may deem proper'' and ''space or'' are omitted as surplus. The words ''for not more than 20 years'' are substituted for ''and for such periods as may be desirable (not to exceed twenty years)'' to eliminate unnecessary words. The words ''for purposes essential or appropriate to their consolidation, operation, protection, and administration under this chapter'' are omitted as surplus. In clause (3), the words ''the sale of fuel, oil, equipment, food and supplies, hotel accommodations, and other'' and ''necessary or desirable for the operation and administration of such properties'' are omitted as surplus. In clause (4), the word ''reasonable'' is substituted for ''just and reasonable'' for consistency in the revised title and with other titles of the United States Code. The words ''(including but not limited to landing fees and fees for the use of communication services)'' are omitted as surplus. In clause (5), the words ''by purchase or otherwise, real or personal'' and ''which he may consider necessary for the purposes of this section'' are omitted as surplus.

In subsection (b), the words ''including handling charges'' are omitted as surplus. The words ''facilities and services sold or provided'' are substituted for ''of the fuel, oil, equipment, food, supplies, services, shelter, or other assistance or services sold or furnished'' for consistency and to eliminate unnecessary words. The words ''under subsection (a)(3) and (4) of this section'' are added for clarity. The words ''if any'' are omitted as surplus. The words ''deposited in the Treasury as'' are substituted for ''credited to'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''use personnel and facilities of the United States Government most advantageously and without unnecessary duplication'' are substituted for ''to the end that personnel and facilities of existing United States Government agencies shall be utilized to the fullest possible advantage and not be unnecessarily duplicated'' to eliminate unnecessary words. The word ''request'' is substituted for ''arrange for'' for clarity. The words ''department, agency, or instrumentality of the Government'' are substituted for ''other United States Government agencies'' for consistency in the revised title and with other titles of the Code. The words ''on a reimbursable basis'' are substituted for ''and to reimburse any such agency for such service out of funds appropriated to the Department of Transportation or the Department of Commerce, as the case may be'' to eliminate unnecessary words.

ANNETTE ISLAND AIRPORT, ALASKA; RENEWAL OF LEASE

Act May 9, 1956, ch. 241, 70 Stat. 146, provided: ''That the Congress of the United States hereby approves the extension, from year to year, until June 30, 1999, of a lease of certain land comprising part of Annette Island, Alaska, for use by the Civil Aeronautics Administration [now the Federal Aviation Administration] as an airport, entered into by the United States of America and the Council of the Annette Island Reserve on December 13, 1948, section 5 of which lease provides that no renewal thereof shall extend beyond June 30, 1959, unless approved by Congress.''

§ 47306. Criminal penalty

A person that knowingly and willfully violates a regulation prescribed by the Secretary of Transportation to carry out this chapter shall be fined under title 18, imprisoned for not more than 6 months, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1283.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47306	49 App.:1159(a) (last sentence).	June 16, 1948, ch. 473, § 10(a) (last sentence), 62 Stat. 454.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code. The words ''if such violation is committed in any area under the civil jurisdiction of the United States'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not more than $500'', and the words ''be deemed guilty of a misdemeanor'' are omitted, for consistency with title 18.

CHAPTER 475—NOISE

SUBCHAPTER I—NOISE ABATEMENT

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AMENDMENTS

1994—Pub. L. 103–429, § 6(72)(B), Oct. 31, 1994, 108 Stat. 4388, added item 47510.

Pub. L. 103–305, title III, § 308(b), Aug. 23, 1994, 108 Stat. 1594, added item 47509.

SUBCHAPTER I—NOISE ABATEMENT

§ 47501. Definitions

In this subchapter—

(1) ''airport'' means a public-use airport as defined in section 47102 of this title.

(2) ''airport operator'' means—

(A) for an airport serving air carriers that have certificates from the Secretary of Transportation, any person holding an airport operating certificate issued under section 44706 of this title; and

(B) for any other airport, the person operating the airport.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47501(1)	49 App.:2101(1).	Feb. 18, 1980, Pub. L. 96–193, § 101(1), 94 Stat. 50; restated Sept. 3, 1982, Pub. L. 97–248, § 524(b)(1), 96 Stat. 696; Dec. 30, 1987, Pub. L. 100–223, § 103(f), 101 Stat. 1489.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:2101(3).	Feb. 18, 1980, Pub. L. 96–193, § 101(3), 94 Stat. 50.
47501(2)	49 App.:2101(2).	Feb. 18, 1980, Pub. L. 96–193, § 101(2), 94 Stat. 50; restated Sept. 3, 1982, Pub. L. 97–248, § 524(b)(2), 96 Stat. 696.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, the words ''the term'' are omitted as surplus.

In clause (1), the text of 49 App.:2101(3) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (2), the word ''valid'' is omitted as surplus.

AIRPORT NOISE STUDY

Pub. L. 106–181, title VII, § 745, Apr. 5, 2000, 114 Stat. 178, as amended by Pub. L. 106–528, § 7(a), Nov. 22, 2000, 114 Stat. 2521, provided that:

''(a) IN GENERAL.—The Secretary [of Transportation] shall enter into an agreement with the National Academy of Sciences to conduct a study on airport noise in the United States.

''(b) CONTENTS OF STUDY.—In conducting the study, the National Academy of Sciences shall examine—

''(1) the threshold of noise at which health begins to be affected;

''(2) the effectiveness of noise abatement programs at airports located in the United States;

''(3) the impacts of aircraft noise on communities, including schools; and

''(4) the noise assessment practices of the Federal Aviation Administration and whether such practices fairly and accurately reflect the burden of noise on communities.

''(c) REPORT.—Not later than 18 months after the date of the agreement entered into under subsection (a), the National Academy of Sciences shall transmit to the Secretary a report on the results of the study. Upon receipt of the report, the Secretary shall transmit a copy of the report to the appropriate committees of Congress.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.''

NONMILITARY HELICOPTER NOISE

Pub. L. 106–181, title VII, § 747, Apr. 5, 2000, 114 Stat. 179, provided that:

''(a) IN GENERAL.—The Secretary [of Transportation] shall conduct a study—

''(1) on the effects of nonmilitary helicopter noise on individuals in densely populated areas in the continental United States; and

''(2) to develop recommendations for the reduction of the effects of nonmilitary helicopter noise.

''(b) FOCUS.—In conducting the study, the Secretary shall focus on air traffic control procedures to address helicopter noise problems and shall take into account the needs of law enforcement.

''(c) CONSIDERATION OF VIEWS.—In conducting the study, the Secretary shall consider the views of representatives of the helicopter industry and organizations with an interest in reducing nonmilitary helicopter noise.

''(d) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Secretary shall transmit to Congress a report on the results of the study conducted under this section.''

§ 47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure

After consultation with the Administrator of the Environmental Protection Agency and United States Government, State, and interstate agencies that the Secretary of Transportation considers appropriate, the Secretary shall by regulation—

(1) establish a single system of measuring noise that—

(A) has a highly reliable relationship between projected noise exposure and surveyed reactions of individuals to noise; and

(B) is applied uniformly in measuring noise at airports and the surrounding area;

(2) establish a single system for determining the exposure of individuals to noise resulting from airport operations, including noise intensity, duration, frequency, and time of occurrence; and

(3) identify land uses normally compatible with various exposures of individuals to noise.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47502	49 App.:2102.	Feb. 18, 1980, Pub. L. 96–193, § 102, 94 Stat. 50.

In this section, before clause (1), the words ''Not later than the last day of the twelfth month which begins after February 18, 1980'' are omitted as obsolete.

§ 47503. Noise exposure maps

(a) SUBMISSION AND PREPARATION.—An airport operator may submit to the Secretary of Transportation a noise exposure map showing the noncompatible uses in each area of the map on the date the map is submitted, a description of estimated aircraft operations during a forecast period that is at least 5 years in the future and how those operations will affect the map. The map shall—

(1) be prepared in consultation with public agencies and planning authorities in the area surrounding the airport; and

(2) comply with regulations prescribed under section 47502 of this title.

(b) REVISED MAPS.—If, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the Federal Aviation Administration, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1284; Pub. L. 108–176, title III, § 324, Dec. 12, 2003, 117 Stat. 2542.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47503(a)	49 App.:2103(a)(1).	Feb. 18, 1980, Pub. L. 96–193, § 103(a), 94 Stat. 50.
47503(b)	49 App.:2103(a)(2).	

In subsection (a), before clause (1), the words ''After the effective date of the regulations promulgated in accordance with section 2102 of this Appendix'' are omitted as executed. The words ''of an airport'' and ''at such airport'' are omitted as surplus. The word ''how'' is substituted for ''the ways, if any, in which'' to eliminate unnecessary words. In clause (1), the words ''planning authorities'' are substituted for ''planning agencies'' for consistency.

In subsection (b), the words ''to the Secretary'' are added for clarity. The words ''after the submission to the Secretary of a noise exposure map under paragraph (1)'' are omitted as surplus.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176, § 324(1), substituted ''a forecast period that is at least 5 years in the future'' for ''1985,'' in introductory provisions.

Subsec. (b). Pub. L. 108–176, § 324(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''If a change in the operation of an airport will establish a substantial new noncompatible use in an area surrounding the airport, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use.''

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.

NOISE DISCLOSURE

Pub. L. 108–176, title III, § 322, Dec. 12, 2003, 117 Stat. 2540, provided that:

''(a) NOISE DISCLOSURE SYSTEM IMPLEMENTATION STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine the feasibility of developing a program under which prospective home buyers of property located in the vicinity of an airport could be notified of information derived from noise exposure maps that may affect the use and enjoyment of the property. The study shall assess the scope, administration, usefulness, and burdensomeness of any such program, the costs and benefits of such a program, and whether participation in such a program should be voluntary or mandatory.

''(b) PUBLIC AVAILABILITY OF NOISE EXPOSURE MAPS.—The Administrator shall make noise exposure and land use information from noise exposure maps available to the public via the Internet on its website in an appropriate format.

''(c) NOISE EXPOSURE MAP.—In this section, the term 'noise exposure map' means a noise exposure map prepared under section 47503 of title 49, United States Code.''

§ 47504. Noise compatibility programs

(a) SUBMISSIONS.—(1) An airport operator that submitted a noise exposure map and related information under section 47503(a) of this title may submit a noise compatibility program to the Secretary of Transportation after—

(A) consulting with public agencies and planning authorities in the area surrounding the airport, United States Government officials having local responsibility for the airport, and air carriers using the airport; and

(B) notice and an opportunity for a public hearing.

(2) A program submitted under paragraph (1) of this subsection shall state the measures the operator has taken or proposes to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area covered by the map. The measures may include—

(A) establishing a preferential runway system;

(B) restricting the use of the airport by a type or class of aircraft because of the noise characteristics of the aircraft;

(C) constructing barriers and acoustical shielding and soundproofing public buildings;

(D) using flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(E) acquiring land, air rights, easements, development rights, and other interests to ensure that the property will be used in ways compatible with airport operations.

(b) APPROVALS.—(1) The Secretary shall approve or disapprove a program submitted under subsection (a) of this section (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) not later than 180 days after receiving it. The Secretary shall approve the program (except as the program is related to flight procedures referred to in subsection (a)(2)(D)) if the program—

(A) does not place an unreasonable burden on interstate or foreign commerce;

(B) is reasonably consistent with achieving the goal of reducing noncompatible uses and preventing the introduction of additional noncompatible uses; and

(C) provides for necessary revisions because of a revised map submitted under section 47503(b) of this title.

(2) A program (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) is deemed to be approved if the Secretary does not act within the 180-day period.

(3) The Secretary shall submit any part of a program related to flight procedures referred to in subsection (a)(2)(D) of this section to the Administrator of the Federal Aviation Administration. The Administrator shall approve or disapprove that part of the program.

(4) The Secretary shall not approve in fiscal years 2004 through 2007 a program submitted under subsection (a) if the program requires the expenditure of funds made available under section 48103 for mitigation of aircraft noise less than 65 DNL.

(c) GRANTS.—(1) The Secretary may incur obligations to make grants from amounts available under section 48103 of this title to carry out a project under a part of a noise compatibility program approved under subsection (b) of this section. A grant may be made to—

(A) an airport operator submitting the program; and

(B) a unit of local government in the area surrounding the airport, if the Secretary decides the unit is able to carry out the project.

(2) SOUNDPROOFING AND ACQUISITION OF CERTAIN RESIDENTIAL BUILDINGS AND PROPERTIES.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title—

(A) for projects to soundproof residential buildings—

(i) if the airport operator received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;

(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;

(B) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof residential buildings located on residential properties, and to acquire residential properties, at which noise levels are not compatible with normal operations of an airport—

(i) if the airport operator amended an existing local aircraft noise regulation during calendar year 1993 to increase the maximum permitted noise levels for scheduled air carrier aircraft as a direct result of implementation of revised aircraft noise departure procedures mandated for aircraft safety purposes by the Administrator of the Federal Aviation Administration for standardized application at airports served by scheduled air carriers;

(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;

(C) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to carry out any part of a program developed before February 18, 1980, or before implementing regulations were prescribed, if the Secretary decides the program is substantially consistent with reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and the purposes of this chapter will be furthered by promptly carrying out the program;

(D) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof a building in the noise impact area surrounding the airport that is used primarily for educational or medical purposes and that the Secretary decides is adversely affected by airport noise; and

(E) to an airport operator of a congested airport (as defined in section 47175) and a unit of local government referred to in paragraph (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47175) even if that airport has not met the re-

quirements of part 150 of title 14, Code of Federal Regulations.

(3) An airport operator may agree to make a grant made under paragraph (1)(A) of this subsection available to a public agency in the area surrounding the airport if the Secretary decides the agency is able to carry out the project.

(4) The Government's share of a project for which a grant is made under this subsection is the greater of—

(A) 80 percent of the cost of the project; or

(B) the Government's share that would apply if the amounts available for the project were made available under subchapter I of chapter 471 of this title for a project at the airport.

(5) The provisions of subchapter I of chapter 471 of this title related to grants apply to a grant made under this chapter, except—

(A) section 47109(a) and (b) of this title; and

(B) any provision that the Secretary decides is inconsistent with, or unnecessary to carry out, this chapter.

(6) AIRCRAFT NOISE PRIMARILY CAUSED BY MILITARY AIRCRAFT.—The Secretary may make a grant under this subsection for a project even if the purpose of the project is to mitigate the effect of noise primarily caused by military aircraft at an airport.

(d) GOVERNMENT RELIEF FROM LIABILITY.—The Government is not liable for damages from aviation noise because of action taken under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1285; Pub. L. 103–305, title I, § 119, Aug. 23, 1994, 108 Stat. 1580; Pub. L. 103–429, § 6(71), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 106–181, title I, § 154, Apr. 5, 2000, 114 Stat. 88; Pub. L. 108–176, title I, § 189, title III, § 306, Dec. 12, 2003, 117 Stat. 2519, 2539.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47504(a)	49 App.:2104(a).	Feb. 18, 1980, Pub. L. 96–193, § 104(a), 94 Stat. 51; Dec. 30, 1987, Pub. L. 100–223, § 301(a), 101 Stat. 1523.
47504(b)	49 App.:2104(b).	Feb. 18, 1980, Pub. L. 96–193, § 104(b), (d), 94 Stat. 52, 53.
47504(c)	49 App.:2104(c).	Feb. 18, 1980, Pub. L. 96–193, § 104(c), 94 Stat. 52; Sept. 3, 1982, Pub. L. 97–248, § 524(b)(4), 96 Stat. 696; Dec. 30, 1987, Pub. L. 100–223, § 301(b), (c), 101 Stat. 1523; Oct. 28, 1991, Pub. L. 102–143, § 336, 105 Stat. 947.
47504(d)	49 App.:2104(d).	

In subsection (a)(1)(A), the words ''the officials of'' are omitted as surplus. The words ''planning authorities'' are substituted for ''planning agencies'' for consistency.

In subsection (a)(2)(A), the word ''establishing'' is substituted for ''the implementation of'' for consistency.

In subsection (a)(2)(B), the words ''the implementation of'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''to him'' and ''the measures to be undertaken in carrying out'' are omitted as surplus. In clause (B), the word ''achieving'' is substituted for ''obtaining'' for clarity. The word ''existing'' is omitted as surplus.

Subsection (b)(2) is substituted for 49 App.:2104(b) (3d sentence) to eliminate unnecessary words.

In subsection (c)(1)(B) and (2), the words ''for which grant applications are made in accordance with such noise compatibility programs'' are omitted as surplus.

In subsection (c)(1), before clause (A), the words ''incur obligations to'' and ''further . . . under this section'' are omitted as surplus. In clause (C), the words ''to carry out any part of a program'' are substituted for ''any project to carry out a noise compatibility program'', and the words ''or before implementing regulations were prescribed'' are substituted for ''or the promulgation of its implementing regulations'', for clarity and consistency. The words ''the purposes of'' before ''reducing'' are omitted as surplus. The word ''noncompatible'' is added after ''existing'' for clarity and consistency. In clause (D), the words ''for any project'' and ''determined to be'' are omitted as surplus.

In subsection (c)(2), the words ''in turn'' are omitted as surplus.

In subsection (c)(4), before clause (A), the words ''All of'' and ''made under section 505 of that Act'' are omitted as surplus. The word ''except'' is substituted for ''unless'' for clarity. In clause (1), the words ''relating to United States share of project costs'' are omitted as surplus. In clause (2), the words ''the purposes of'' are omitted as surplus.

In subsection (d), the words ''by the Secretary or the Administrator of the Federal Aviation Administration'' are omitted as surplus.

PUB. L. 103–429

This redesignates 49:47504(c)(1)(C) and (D) as 49:47504(c)(2)(C) and (D) because the subject matter is similar to that of 49:47504(c)(2)(A) and (B) that was added by section 119(2) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1580).

REFERENCES IN TEXT

Section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987, referred to in subsec. (c)(2)(A)(i), is section 301(d)(4)(B) of Pub. L. 100–223, which was set out as a note under section 2104 of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379.

AMENDMENTS

2003—Subsec. (b)(4). Pub. L. 108–176, § 189, added par. (4).

Subsec. (c)(2)(C)–(E). Pub. L. 108–176, § 306, realigned margins of subpars. (C) and (D) and added subpar. (E).

2000—Subsec. (c)(6). Pub. L. 106–181 added par. (6).

1994—Subsec. (c)(1)(A). Pub. L. 103–429, § 6(71)(A), inserted ''and'' after semicolon at end.

Subsec. (c)(1)(B). Pub. L. 103–429, § 6(71)(B), substituted a period for semicolon at end.

Subsec. (c)(1)(C), (D). Pub. L. 103–429, § 6(71)(C), redesignated par. (1)(C) as (2)(C) and (1)(D) as (2)(D).

Subsec. (c)(2). Pub. L. 103–305, § 119(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (c)(2)(A)(iii). Pub. L. 103–429, § 6(71)(D), struck out ''and'' after semicolon at end.

Subsec. (c)(2)(B)(iii). Pub. L. 103–429, § 6(71)(E), substituted a semicolon for period at end.

Subsec. (c)(2)(C), (D). Pub. L. 103–429, § 6(71)(F), substituted ''to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection'' for ''an airport operator or unit of local government referred to in clause (A) or (B) of this paragraph''.

Pub. L. 103–429, § 6(71)(C), redesignated par. (1)(C) as (2)(C) and (1)(D) as (2)(D).

Subsec. (c)(3). Pub. L. 103–305, § 119(1), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (c)(4). Pub. L. 103–305, § 119(3), struck out ''paragraph (1) of'' before ''this subsection'' in introductory provisions.

Pub. L. 103–305, § 119(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 103–305, § 119(1), redesignated par. (4) as (5).

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 47505. Airport noise compatibility planning grants

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant to a sponsor of an airport to develop, for planning purposes, information necessary to prepare and submit—

(1) a noise exposure map and related information under section 47503 of this title, including the cost of obtaining the information; or

(2) a noise compatibility program under section 47504 of this title.

(b) AVAILABILITY OF AMOUNTS AND GOVERNMENT'S SHARE OF COSTS.—A grant under subsection (a) of this section may be made from amounts available under section 48103 of this title. The United States Government's share of the grant is the percent for which a project for airport development at an airport would be eligible under section 47109(a) and (b) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1286.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47505	49 App.:2103(b).	Feb. 18, 1980, Pub. L. 96–193, § 103(b), 94 Stat. 51; restated Sept. 3, 1982, Pub. L. 97–248, § 524(b)(3), 96 Stat. 696.

In subsection (a), before clause (1), the words ''incur obligations to'' are omitted as surplus.

§ 47506. Limitations on recovering damages for noise

(a) GENERAL LIMITATIONS.—A person acquiring an interest in property after February 18, 1980, in an area surrounding an airport for which a noise exposure map has been submitted under section 47503 of this title and having actual or constructive knowledge of the existence of the map may recover damages for noise attributable to the airport only if, in addition to any other elements for recovery of damages, the person shows that—

(1) after acquiring the interest, there was a significant—

(A) change in the type or frequency of aircraft operations at the airport;

(B) change in the airport layout;

(C) change in flight patterns; or

(D) increase in nighttime operations; and

(2) the damages resulted from the change or increase.

(b) CONSTRUCTIVE KNOWLEDGE.—Constructive knowledge of the existence of a map under subsection (a) of this section shall be imputed, at a minimum, to a person if—

(1) before the person acquired the interest, notice of the existence of the map was published at least 3 times in a newspaper of general circulation in the county in which the property is located; or

(2) the person is given a copy of the map when acquiring the interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1286.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47506	49 App.:2107.	Feb. 18, 1980, Pub. L. 96–193, § 107, 94 Stat. 53.

In subsection (a)(2), the words ''for which recovery is sought have'' are omitted as surplus.

§ 47507. Nonadmissibility of noise exposure map and related information as evidence

No part of a noise exposure map or related information described in section 47503 of this title that is submitted to, or prepared by, the Secretary of Transportation and no part of a list of land uses the Secretary identifies as normally compatible with various exposures of individuals to noise may be admitted into evidence or used for any other purpose in a civil action asking for relief for noise resulting from the operation of an airport.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47507	49 App.:2106.	Feb. 18, 1980, Pub. L. 96–193, § 106, 94 Stat. 53.

The words ''land uses which are'' are omitted as surplus. The words ''civil action'' are substituted for ''suit or action'' for consistency in the revised title and with other titles of the United States Code. The words ''damages or other'' are omitted as surplus.

§ 47508. Noise standards for air carriers and foreign air carriers providing foreign air transportation

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall require each air carrier and foreign air carrier providing foreign air transportation to comply with noise standards—

(1) the Secretary prescribed for new subsonic aircraft in regulations of the Secretary in effect on January 1, 1977; or

(2) of the International Civil Aviation Organization that are substantially compatible with standards of the Secretary for new subsonic aircraft in regulations of the Secretary at parts 36 and 91 of title 14, Code of Federal Regulations, prescribed between January 2, 1977, and January 1, 1982.

(b) COMPLIANCE AT PHASED RATE.—The Secretary shall require each air carrier and foreign air carrier providing foreign air transportation to comply with the noise standards at a phased rate similar to the rate for aircraft registered in the United States.

(c) NONDISCRIMINATION.—The requirement for air carriers providing foreign air transportation

may not be more stringent than the requirement for foreign air carriers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47508(a)	49 App.:2122(a) (1st sentence words before last comma, last sentence).	Feb. 18, 1980, Pub. L. 96–193, § 302(a), 94 Stat. 56.
47508(b)	49 App.:2122(a) (1st sentence words after last comma).	
47508(c)	49 App.:2122(a) (2d sentence).	

In this section, the word ''providing'' is substituted for ''engaging in'' for consistency in the revised title.

In subsection (a), the words ''acting through the Administrator'' and ''acting through the Administrator of the Federal Aviation Administration (14 CFR part 36)'' are omitted for consistency. Section 6(c)(1) of the Department of Transportation Act (Public Law 89–670, 80 Stat. 938) transferred all duties and powers of the Federal Aviation Agency and the Administrator to the Secretary of Transportation. However, the Secretary was to carry out certain provisions through the Administrator. In addition, various laws enacted since then have vested duties and powers in the Administrator. All provisions of law the Secretary is required to carry out through the Administrator are included in 49:106(g). Before clause (1), the words ''If, by January 1, 1980, the International Civil Aviation Organization (hereafter referred to as 'ICAO') does not reach an agreement'' and ''commence a rulemaking to'' and 49 App.:2122(a) (last sentence) are omitted as executed. In clause (1), the words ''as such regulations were'' are omitted as surplus. In clause (2), the words ''on noise standards and an international schedule'' and ''(annex 16)'' are omitted as surplus. The words ''of the Secretary for new subsonic aircraft in regulations of the Secretary at parts 36 and 91 of title 14, Code of Federal Regulations, prescribed between January 2, 1977, and January 1, 1982'' are substituted for ''set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91) during the 5-year period thereafter'' for clarity and consistency.

In subsection (b), the words ''in effect'' are omitted as surplus.

IMPLEMENTATION OF CHAPTER 4 NOISE STANDARDS

Pub. L. 108–176, title III, § 325, Dec. 12, 2003, 117 Stat. 2542, provided that: ''Not later than April 1, 2005, the Secretary of Transportation shall issue final regulations to implement Chapter 4 noise standards, consistent with the recommendations adopted by the International Civil Aviation Organization.''

STANDARDS FOR AIRCRAFT AND AIRCRAFT ENGINES TO REDUCE NOISE LEVELS

Pub. L. 106–181, title VII, § 726, Apr. 5, 2000, 114 Stat. 167, provided that:

''(a) DEVELOPMENT OF NEW STANDARDS.—The Secretary [of Transportation] shall continue to work to develop through the International Civil Aviation Organization new performance standards for aircraft and aircraft engines that will lead to a further reduction in aircraft noise levels.

''(b) GOALS TO BE CONSIDERED IN DEVELOPING NEW STANDARDS.—In negotiating standards under subsection (a), the Secretary shall give high priority to developing standards that—

''(1) are performance based and can be achieved by use of a full range of certifiable noise reduction technologies;

''(2) protect the useful economic value of existing Stage 3 aircraft in the United States fleet;

''(3) ensure that United States air carriers and aircraft engine and hushkit manufacturers are not competitively disadvantaged;

''(4) use dynamic economic modeling capable of determining impacts on all aircraft in service in the United States fleet; and

''(5) continue the use of a balanced approach to address aircraft environmental issues, taking into account aircraft technology, land use planning, economic feasibility, and airspace operational improvements.

''(c) ANNUAL REPORT.—Not later than July 1, 2000, and annually thereafter, the Secretary shall transmit to Congress a report regarding the application of new standards or technologies to reduce aircraft noise levels.''

AIRCRAFT NOISE RESEARCH PROGRAM

Pub. L. 102–581, title III, § 304, Oct. 31, 1992, 106 Stat. 4896, as amended by Pub. L. 109–155, title VII, § 706(b), Dec. 30, 2005, 119 Stat. 2937, provided that:

''(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a research program to develop new technologies for quieter subsonic jet aircraft engines and airframes.

''(b) GOAL.—The goal of the research program established by subsection (a) is to develop by the year 2010 technologies for subsonic jet aircraft engines and airframes which would permit a subsonic jet aircraft to operate at reduced noise levels.

''(c) PARTICIPATION.—In carrying out the program established by subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of representatives of the aviation industry and academia.

''(d) REPORT TO CONGRESS.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress, on an annual basis during the term of the program established by subsection (a), a report on the progress being made under the program toward meeting the goal described in subsection (b).''

§ 47509. Research program on quiet aircraft technology for propeller and rotor driven aircraft

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall conduct a study to identify technologies for noise reduction of propeller driven aircraft and rotorcraft.

(b) GOAL.—The goal of the study conducted under subsection (a) is to determine the status of research and development now underway in the area of quiet technology for propeller driven aircraft and rotorcraft, including technology that is cost beneficial, and to determine whether a research program to supplement existing research activities is necessary.

(c) PARTICIPATION.—In conducting the study required under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of the Department of Defense, the Department of the Interior, the airtour industry, the aviation industry, academia and other appropriate groups.

(d) REPORT.—Not less than 280 days after August 23, 1994, the Administrator of the Federal Aviation Administration and the Administrator

of the National Aeronautics and Space Administration shall transmit to Congress a report on the results of the study required under subsection (a).

(e) RESEARCH AND DEVELOPMENT PROGRAM.—If the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration determine that additional research and development is necessary and would substantially contribute to the development of quiet aircraft technology, then the agencies shall conduct an appropriate research program in consultation with the entities listed in subsection (c) to develop safe, effective, and economical noise reduction technology (including technology that can be applied to existing propeller driven aircraft and rotorcraft) that would result in aircraft that operate at substantially reduced levels of noise to reduce the impact of such aircraft and rotorcraft on the resources of national parks and other areas.

(Added Pub. L. 103–305, title III, § 308(a), Aug. 23, 1994, 108 Stat. 1593; amended Pub. L. 104–287, § 5(86), Oct. 11, 1996, 110 Stat. 3398.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–287 substituted ''August 23, 1994'' for ''the date of the enactment of this section''.

§ 47510. Tradeoff allowance

Notwithstanding another law or a regulation prescribed or order issued under that law, the tradeoff provisions contained in appendix C of part 36 of title 14, Code of Federal Regulations, apply in deciding whether an aircraft complies with subpart I of part 91 of title 14.

(Added Pub. L. 103–429, § 6(72)(A), Oct. 31, 1994, 108 Stat. 4387.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47510	49 App.:2125.	Feb. 18, 1980, Pub. L. 96–193, § 305, 94 Stat. 57.

The word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The words ''subpart I of part 91'' are substituted for ''subpart E of part 91'' because of the restatement of part 91. See 54 Fed. Reg. 34321 (Aug. 18, 1989).

SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

§ 47521. Findings

Congress finds that—

(1) aviation noise management is crucial to the continued increase in airport capacity;

(2) community noise concerns have led to uncoordinated and inconsistent restrictions on aviation that could impede the national air transportation system;

(3) a noise policy must be carried out at the national level;

(4) local interest in aviation noise management shall be considered in determining the national interest;

(5) community concerns can be alleviated through the use of new technology aircraft and the use of revenues, including those available from passenger facility fees, for noise management;

(6) revenues controlled by the United States Government can help resolve noise problems and carry with them a responsibility to the national airport system;

(7) revenues derived from a passenger facility fee may be applied to noise management and increased airport capacity; and

(8) a precondition to the establishment and collection of a passenger facility fee is the prescribing by the Secretary of Transportation of a regulation establishing procedures for reviewing airport noise and access restrictions on operations of stage 2 and stage 3 aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47521	49 App.:2151.	Nov. 5, 1990, Pub. L. 101–508, § 9302, 104 Stat. 1388–378.

§ 47522. Definitions

In this subchapter—

(1) ''air carrier'', ''air transportation'', and ''United States'' have the same meanings given those terms in section 40102(a) of this title.

(2) ''stage 3 noise levels'' means the stage 3 noise levels in part 36 of title 14, Code of Federal Regulations, in effect on November 5, 1990.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47522	49 App.:2157(h).	Nov. 5, 1990, Pub. L. 101–508, § 9308(h), 104 Stat. 1388–384.

The definitions are made applicable to all of subchapter II, rather than only to those provisions based on 49 App.:2157 as in the source provisions, because the defined terms appear in several sections of subchapter II and it is assumed they are intended to have the same meaning in each of those sections.

§ 47523. National aviation noise policy

(a) GENERAL REQUIREMENTS.—Not later than July 1, 1991, the Secretary of Transportation shall establish by regulation a national aviation noise policy that considers this subchapter, including the phaseout and nonaddition of stage 2 aircraft as provided in this subchapter and dates for carrying out that policy and reporting requirements consistent with this subchapter and law existing as of November 5, 1990.

(b) DETAILED ECONOMIC ANALYSIS.—The policy shall be based on a detailed economic analysis of the impact of the phaseout date for stage 2 aircraft on competition in the airline industry, including—

(1) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(2) the impact of competition in the airline and air cargo industries;

(3) the impact on nonhub and small community air service; and

(4) the impact on new entry into the airline industry.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47523	49 App.:2152.	Nov. 5, 1990, Pub. L. 101–508, § 9303, 104 Stat. 1388–378.

In this section, the text of 49 App.:2152(c) is omitted as executed.

In subsection (a), the words ''(hereinafter in this chapter referred to as the 'Secretary')'' are omitted because of the restatement. The words ''this subchapter'' (the first time they appear) are substituted for ''the findings, determinations, and provisions of this chapter'' to eliminate unnecessary words.

Subsection (b) is tabulated for clarity.

§ 47524. Airport noise and access restriction review program

(a) GENERAL REQUIREMENTS.—The national aviation noise policy established under section 47523 of this title shall provide for establishing by regulation a national program for reviewing airport noise and access restrictions on the operation of stage 2 and stage 3 aircraft. The program shall provide for adequate public notice and opportunity for comment on the restrictions.

(b) STAGE 2 AIRCRAFT.—Except as provided in subsection (d) of this section, an airport noise or access restriction may include a restriction on the operation of stage 2 aircraft proposed after October 1, 1990, only if the airport operator publishes the proposed restriction and prepares and makes available for public comment at least 180 days before the effective date of the proposed restriction—

(1) an analysis of the anticipated or actual costs and benefits of the existing or proposed restriction;

(2) a description of alternative restrictions;

(3) a description of the alternative measures considered that do not involve aircraft restrictions; and

(4) a comparison of the costs and benefits of the alternative measures to the costs and benefits of the proposed restriction.

(c) STAGE 3 AIRCRAFT.—(1) Except as provided in subsection (d) of this section, an airport noise or access restriction on the operation of stage 3 aircraft not in effect on October 1, 1990, may become effective only if the restriction has been agreed to by the airport proprietor and all aircraft operators or has been submitted to and approved by the Secretary of Transportation after an airport or aircraft operator's request for approval as provided by the program established under this section. Restrictions to which this paragraph applies include—

(A) a restriction on noise levels generated on either a single event or cumulative basis;

(B) a restriction on the total number of stage 3 aircraft operations;

(C) a noise budget or noise allocation program that would include stage 3 aircraft;

(D) a restriction on hours of operations; and

(E) any other restriction on stage 3 aircraft.

(2) Not later than 180 days after the Secretary receives an airport or aircraft operator's request for approval of an airport noise or access restriction on the operation of a stage 3 aircraft, the Secretary shall approve or disapprove the restriction. The Secretary may approve the restriction only if the Secretary finds on the basis of substantial evidence that—

(A) the restriction is reasonable, nonarbitrary, and nondiscriminatory;

(B) the restriction does not create an unreasonable burden on interstate or foreign commerce;

(C) the restriction is not inconsistent with maintaining the safe and efficient use of the navigable airspace;

(D) the restriction does not conflict with a law or regulation of the United States;

(E) an adequate opportunity has been provided for public comment on the restriction; and

(F) the restriction does not create an unreasonable burden on the national aviation system.

(3) Paragraphs (1) and (2) of this subsection do not apply if the Administrator of the Federal Aviation Administration, before November 5, 1990, has formed a working group (outside the process established by part 150 of title 14, Code of Federal Regulations) with a local airport operator to examine the noise impact of air traffic control procedure changes at the airport. However, if an agreement on noise reductions at that airport is made between the airport proprietor and one or more air carriers or foreign air carriers that constitute a majority of the carrier use of the airport, this paragraph applies only to a local action to enforce the agreement.

(4) The Secretary may reevaluate an airport noise or access restriction previously agreed to or approved under this subsection on request of an aircraft operator able to demonstrate to the satisfaction of the Secretary that there has been a change in the noise environment of the affected airport that justifies a reevaluation. The Secretary shall establish by regulation procedures for conducting a reevaluation. A reevaluation—

(A) shall be based on the criteria in paragraph (2) of this subsection; and

(B) may be conducted only after 2 years after a decision under paragraph (2) of this subsection has been made.

(d) NONAPPLICATION.—Subsections (b) and (c) of this section do not apply to—

(1) a local action to enforce a negotiated or executed airport noise or access agreement between the airport operator and the aircraft operators in effect on November 5, 1990;

(2) a local action to enforce a negotiated or executed airport noise or access restriction agreed to by the airport operator and the aircraft operators before November 5, 1990;

(3) an intergovernmental agreement including an airport noise or access restriction in effect on November 5, 1990;

(4) a subsequent amendment to an airport noise or access agreement or restriction in ef-

fect on November 5, 1990, that does not reduce or limit aircraft operations or affect aircraft safety;

(5)(A) an airport noise or access restriction adopted by an airport operator not later than October 1, 1990, and stayed as of October 1, 1990, by a court order or as a result of litigation, if any part of the restriction is subsequently allowed by a court to take effect; or

(B) a new restriction imposed by an airport operator to replace any part of a restriction described in subclause (A) of this clause that is disallowed by a court, if the new restriction would not prohibit aircraft operations in effect on November 5, 1990; or

(6) a local action that represents the adoption of the final part of a program of a staged airport noise or access restriction if the initial part of the program was adopted during 1988 and was in effect on November 5, 1990.

(e) GRANT LIMITATIONS.—Beginning on the 91st day after the Secretary prescribes a regulation under subsection (a) of this section, a sponsor of a facility operating under an airport noise or access restriction on the operation of stage 3 aircraft that first became effective after October 1, 1990, is eligible for a grant under section 47104 of this title and is eligible to impose a passenger facility fee under section 40117 of this title only if the restriction has been—

(1) agreed to by the airport proprietor and aircraft operators;

(2) approved by the Secretary as required by subsection (c)(1) of this section; or

(3) rescinded.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47524(a)	49 App.:2153(a)(1).	Nov. 5, 1990, Pub. L. 101–508, § 9304(a)(1)– (2)(C), (3)–(g), 104 Stat. 1388–379.
47524(b)	49 App.:2153(a)(2)(A), (c).	
47524(c)(1) ..	49 App.:2153(a)(2)(B), (b).	
47524(c)(2) ..	49 App.:2153(d).	
47524(c)(3) ..	49 App.:2153(a)(2)(D).	Nov. 5, 1990, Pub. L. 101–508, § 9304(a)(2)(D), 104 Stat. 1388–380; Oct. 31, 1992, Pub. L. 102–581, § 136(a), 106 Stat. 4889.
47524(c)(4) ..	49 App.:2153(f), (g).	
47524(d)	49 App.:2153(a)(2)(C).	
47524(e)	49 App.:2153(e).	

In subsection (a), the words ''shall provide for establishing'' are substituted for ''shall require the establishment . . . of'' as being more appropriate. The words ''in accordance with the provisions of this section'' are omitted as surplus.

In subsection (b), the words ''proposed after October 1, 1990'' are substituted for 49 App.:2153(a)(2)(A) to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words ''not in effect on October 1, 1990'' are substituted for 49 App.:2153(a)(2)(B) to eliminate unnecessary words. In clause (B), the words ''direct or indirect'' are omitted as surplus.

In subsection (c)(2)(A)–(D) and (F), the word ''proposed'' is omitted as surplus. In clause (D), the word ''existing'' is omitted as surplus.

In subsection (c)(4), the words ''that justifies a reevaluation'' are substituted for ''and that a review and reevaluation . . . of the previously approved or agreed to noise restriction is therefore justified'' to eliminate unnecessary words.

In subsection (d)(6), the words ''calendar year'' are omitted as surplus.

§ 47525. Decision about airport noise and access restrictions on certain stage 2 aircraft

The Secretary of Transportation shall conduct a study and decide on the application of section 47524(a)–(d) of this title to airport noise and access restrictions on the operation of stage 2 aircraft with a maximum weight of not more than 75,000 pounds. In making the decision, the Secretary shall consider—

(1) noise levels produced by those aircraft relative to other aircraft;

(2) the benefits to general aviation and the need for efficiency in the national air transportation system;

(3) the differences in the nature of operations at airports and the areas immediately surrounding the airports;

(4) international standards and agreements on aircraft noise; and

(5) other factors the Secretary considers necessary.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47525	49 App.:2154.	Nov. 5, 1990, Pub. L. 101–508, § 9305, 104 Stat. 1388–382.

In this section, before clause (1), the words ''conduct a study and decide on'' are substituted for ''determine by a study'' for clarity. The words ''with a maximum weight of not more than'' are substituted for ''weighing less than'' for consistency with sections 47528 and 47529 of the revised title.

§ 47526. Limitations for noncomplying airport noise and access restrictions

Unless the Secretary of Transportation is satisfied that an airport is not imposing an airport noise or access restriction not in compliance with this subchapter, the airport may not—

(1) receive money under subchapter I of chapter 471 of this title; or

(2) impose a passenger facility fee under section 40117 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47526	49 App.:2156.	Nov. 5, 1990, Pub. L. 101–508, § 9307, 104 Stat. 1388–382.

In this section, before clause (1), the words ''Under no conditions'' are omitted as surplus. In clause (2), the words ''or collect'' are omitted as surplus.

§ 47527. Liability of the United States Government for noise damages

When a proposed airport noise or access restriction is disapproved under this subchapter, the United States Government shall assume liability for noise damages only to the extent

that a taking has occurred as a direct result of the disapproval. The United States Court of Federal Claims has exclusive jurisdiction of a civil action under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47527	49 App.:2155.	Nov. 5, 1990, Pub. L. 101–508, §9306, 104 Stat. 1388–382.

The words ''under this subchapter'' are added for clarity. The words ''has exclusive jurisdiction of a civil action under this section'' are substituted for ''Action for the resolution of such a case shall be brought solely in'' for clarity and consistency. The words ''Court of Federal Claims'' are substituted for ''Claims Court'' to reflect the change of name of the Court by section 902(b) of the Federal Courts Administration Act of 1992 (Public Law 102–572, 106 Stat. 4516).

§ 47528. Prohibition on operating certain aircraft not complying with stage 3 noise levels

(a) PROHIBITION.—Except as provided in subsection (b) or (f) of this section and section 47530 of this title, a person may operate after December 31, 1999, a civil subsonic turbojet (for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator) with a maximum weight of more than 75,000 pounds to or from an airport in the United States only if the Secretary of Transportation finds that the aircraft complies with the stage 3 noise levels.

(b) WAIVERS.—(1) If, not later than July 1, 1999, at least 85 percent of the aircraft used by an air carrier or foreign air carrier to provide air transportation comply with the stage 3 noise levels, the carrier may apply for a waiver of subsection (a) of this section for the remaining aircraft used by the carrier to provide air transportation. The application must be filed with the Secretary not later than January 1, 1999, or, in the case of a foreign air carrier, the 15th day following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century and must include a plan with firm orders for making all aircraft used by the carrier to provide air transportation comply with the noise levels not later than December 31, 2003.

(2) The Secretary may grant a waiver under this subsection if the Secretary finds it would be in the public interest. In making the finding, the Secretary shall consider the effect of granting the waiver on competition in the air carrier industry and on small community air service.

(3) A waiver granted under this subsection may not permit the operation of stage 2 aircraft in the United States after December 31, 2003.

(c) SCHEDULE FOR PHASED-IN COMPLIANCE.—The Secretary shall establish by regulation a schedule for phased-in compliance with subsection (a) of this section. The phase-in period shall begin on November 5, 1990, and end before December 31, 1999. The regulations shall establish interim compliance dates. The schedule for phased-in compliance shall be based on—

(1) a detailed economic analysis of the impact of the phaseout date for stage 2 aircraft on competition in the airline industry, including—

(A) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(B) the impact of competition in the airline and air cargo industries;

(C) the impact on nonhub and small community air service; and

(D) the impact on new entry into the airline industry; and

(2) an analysis of the impact of aircraft noise on individuals residing near airports.

(d) ANNUAL REPORT.—Beginning with calendar year 1992—

(1) each air carrier shall submit to the Secretary an annual report on the progress the carrier is making toward complying with the requirements of this section and regulations prescribed under this section; and

(2) the Secretary shall submit to Congress an annual report on the progress being made toward that compliance.

(e) HAWAIIAN OPERATIONS.—(1) In this subsection, ''turnaround service'' means a flight between places only in Hawaii.

(2)(A) An air carrier or foreign air carrier may not operate in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, a greater number of stage 2 aircraft with a maximum weight of more than 75,000 pounds than it operated in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, on November 5, 1990.

(B) An air carrier that provided turnaround service in Hawaii on November 5, 1990, using stage 2 aircraft with a maximum weight of more than 75,000 pounds may include in the number of aircraft authorized under subparagraph (A) of this paragraph all stage 2 aircraft with a maximum weight of more than 75,000 pounds that were owned or leased by that carrier on that date, whether or not the aircraft were operated by the carrier on that date.

(3) An air carrier may provide turnaround service in Hawaii using stage 2 aircraft with a maximum weight of more than 75,000 pounds only if the carrier provided the service on November 5, 1990.

(4) An air carrier operating stage 2 aircraft under this subsection may transport stage 2 aircraft to or from the 48 contiguous States on a nonrevenue basis in order—

(A) to perform maintenance (including major alterations) or preventative maintenance on aircraft operated, or to be operated, within the limitations of paragraph (2)(B); or

(B) conduct operations within the limitations of paragraph (2)(B).

(f) AIRCRAFT MODIFICATION, DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING.—

(1) IN GENERAL.—The Secretary shall permit a person to operate after December 31, 1999, a stage 2 aircraft in nonrevenue service through the airspace of the United States or to or from an airport in the contiguous 48 States in order to—

(A) sell, lease, or use the aircraft outside the contiguous 48 States;

(B) scrap the aircraft;

(C) obtain modifications to the aircraft to meet stage 3 noise levels;

(D) perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States;

(E) deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor;

(F) prepare or park or store the aircraft in anticipation of any of the activities described in subparagraphs (A) through (E); or

(G) divert the aircraft to an alternative airport in the contiguous 48 States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in subparagraphs (A) through (F).

(2) PROCEDURE TO BE PUBLISHED.—Not later than 30 days after the date of the enactment of this subsection, the Secretary shall establish and publish a procedure to implement paragraph (1) through the use of categorical waivers, ferry permits, or other means.

(g) STATUTORY CONSTRUCTION.—Nothing in this section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on November 1, 1999.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1291; Pub. L. 106–113, div. B, § 1000(a)(5) [title II, § 231(a), (b)(1)], Nov. 29, 1999, 113 Stat. 1536, 1501A–300, 1501A–301; Pub. L. 106–181, title VII, § 721(a)–(c)(1), (d), Apr. 5, 2000, 114 Stat. 164, 165.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47528(a)	49 App.:2157(a).	Nov. 5, 1990, Pub. L. 101–508, § 9308(a)–(c), (g), 104 Stat. 1388–382, 1388–383.
47528(b)	49 App.:2157(b).	
47528(c)	49 App.:2157(c).	
47528(d)	49 App.:2157(g).	
47528(e)	49 App.:2157(i).	Nov. 5, 1990, Pub. L. 101–508, 104 Stat. 1388–382, § 9308(i); added Oct. 28, 1991, Pub. L. 102–143, § 349(b), 105 Stat. 949.

In subsection (e), the words ''the State of'' are omitted as surplus. The words ''place'' and ''places'' are substituted for ''point'' and ''points'' for consistency in title the revised title.

In subsection (e)(1), the words ''the operation of'' are omitted as surplus. The words ''places only in Hawaii'' are substituted for ''two or more points, all of which are within the State of Hawaii'' to eliminate unnecessary words.

REFERENCES IN TEXT

The date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

The date of the enactment of this subsection, referred to in subsec. (f)(2), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2000—Pub. L. 106–181, § 721(a), repealed Pub. L. 106–113, § 1000(a)(5) [title II, § 231]. See 1999 Amendment notes and Construction of 2000 Amendment note below.

Subsec. (a). Pub. L. 106–181, § 721(b)(1), (c)(1), substituted ''subsection (b) or (f)'' for ''subsection (b)'' and inserted ''(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)'' after ''civil subsonic turbojet''.

Subsec. (b)(1). Pub. L. 106–181, § 721(d), in first sentence, inserted ''or foreign air carrier'' after ''air carrier'', and, in last sentence, inserted ''or, in the case of a foreign air carrier, the 15th day following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century'' after ''January 1, 1999,''.

Subsec. (e)(4). Pub. L. 106–181, § 721(b)(2), added par. (4).

Subsecs. (f), (g). Pub. L. 106–181, § 721(b)(3), added subsecs. (f) and (g).

1999—Pub. L. 106–113, § 1000(a)(5) [title II, § 231(a)], which directed the amendment of section 47528 by substituting ''subsection (b) or (f)'' for ''subsection (b)'' in subsec. (a), adding a par. (4) to subsec. (e), and adding subsec. (f) at the end, without specifying the Code title to be amended, was repealed by Pub. L. 106–181, § 721(a). See Construction of 2000 Amendment note below.

Subsec. (a). Pub. L. 106–113, § 1000(a)(5) [title II, § 231(b)(1)], which inserted ''(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)'' after ''civil subsonic turbojet'', was repealed by Pub. L. 106–181, § 721(a). See Construction of 2000 Amendment note below.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

REGULATIONS

Pub. L. 106–181, title VII, § 721(c)(2), Apr. 5, 2000, 114 Stat. 165, provided that: ''Regulations contained in title 14, Code of Federal Regulations, that implement section 47528 of title 49, United States Code, and related provisions shall be deemed to incorporate the amendment made by paragraph (1) [amending this section] on the date of the enactment of this Act [Apr. 5, 2000].''

CONSTRUCTION OF 2000 AMENDMENT

Pub. L. 106–181, title VII, § 721(a), Apr. 5, 2000, 114 Stat. 164, provided that: ''Section 231 of H.R. 3425 of the 106th Congress, as enacted into law by section 1000(a)(5) of Public Law 106–113 [amending this section], is repealed and the provisions of law amended by such section shall be read as if such section had not been enacted into law.''

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (d)(2) of this section relating to the requirement that the Secretary submit an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 7th item on page 132 of House Document No. 103–7.

§ 47529. Nonaddition rule

(a) GENERAL LIMITATIONS.—Except as provided in subsection (b) of this section and section 47530 of this title, a person may operate a civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds that is imported into the United States after November 4, 1990, only if the aircraft—

(1) complies with the stage 3 noise levels; or

(2) was purchased by the person importing the aircraft into the United States under a le-

gally binding contract made before November 5, 1990.

(b) EXEMPTIONS.—The Secretary of Transportation may provide an exemption from subsection (a) of this section to permit a person to obtain modifications to an aircraft to meet the stage 3 noise levels.

(c) AIRCRAFT DEEMED NOT IMPORTED.—In this section, an aircraft is deemed not to have been imported into the United States if the aircraft—

(1) was owned on November 5, 1990, by—

(A) a corporation, trust, or partnership organized under the laws of the United States or a State (including the District of Columbia);

(B) an individual who is a citizen of the United States; or

(C) an entity that is owned or controlled by a corporation, trust, partnership, or individual described in subclause (A) or (B) of this clause; and

(2) enters the United States not later than 6 months after the expiration of a lease agreement (including any extension) between an owner described in clause (1) of this subsection and a foreign carrier.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1292.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47529	49 App.:2158.	Nov. 5, 1990, Pub. L. 101–508, § 9309, 104 Stat. 1388–384; Oct. 31, 1992, Pub. L. 102–581, § 136(b), 106 Stat. 4889.

§ 47530. Nonapplication of sections 47528(a)–(d) and 47529 to aircraft outside the 48 contiguous States

Sections 47528(a)–(d) and 47529 of this title do not apply to aircraft used only to provide air transportation outside the 48 contiguous States. A civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds that is imported into a noncontiguous State or a territory or possession of the United States after November 4, 1990, may be used to provide air transportation in the 48 contiguous States only if the aircraft complies with the stage 3 noise levels.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47530	49 App.:2157(d).	Nov. 5, 1990, Pub. L. 101–508, § 9308(d), 104 Stat. 1388–383; Oct. 28, 1991, Pub. L. 102–143, § 349(a), 105 Stat. 949.

§ 47531. Penalties for violating sections 47528–47530

A person violating section 47528, 47529, or 47530 of this title or a regulation prescribed under any of those sections is subject to the same civil penalties and procedures under chapter 463 of this title as a person violating section 44701(a) or (b) or any of sections 44702–44716 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1293; Pub. L. 103–429, § 6(73), Oct. 31, 1994, 108 Stat. 4388.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47531	49 App.:2157(e).	Nov. 5, 1990, Pub. L. 101–508, § 9308(e), 104 Stat. 1388–383.

PUB. L. 103–429

This amends 49:47531 to correct a grammatical error and erroneous cross-references.

AMENDMENTS

1994—Pub. L. 103–429 substituted ''section 47528'' for ''sections 47528'' and inserted ''any of'' before ''those'' and ''any of sections'' before ''44702–44716''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 47532. Judicial review

An action taken by the Secretary of Transportation under any of sections 47528–47531 of this title is subject to judicial review as provided under section 46110 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1293; Pub. L. 103–429, § 6(74), Oct. 31, 1994, 108 Stat. 4388.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47532	49 App.:2157(f).	Nov. 5, 1990, Pub. L. 101–508, § 9308(f), 104 Stat. 1388–383.

PUB. L. 103–429

This amends 49:47532 to correct an erroneous cross-reference.

AMENDMENTS

1994—Pub. L. 103–429 inserted ''any of'' before ''sections''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 47533. Relationship to other laws

Except as provided by section 47524 of this title, this subchapter does not affect—

(1) law in effect on November 5, 1990, on airport noise or access restrictions by local authorities;

(2) any proposed airport noise or access restriction at a general aviation airport if the airport proprietor has formally initiated a regulatory or legislative process before October 2, 1990; or

(3) the authority of the Secretary of Transportation to seek and obtain legal remedies the Secretary considers appropriate, including injunctive relief.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47533	49 App.:2153(h).	Nov. 5, 1990, Pub. L. 101–508, § 9304(h), 104 Stat. 1388–382.

PART C—FINANCING

CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

Sec.
48101. Air navigation facilities and equipment.
48102. Research and development.
48103. Airport planning and development and noise compatibility planning and programs.
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48105. Weather reporting services.
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48108. Availability and uses of amounts.
48109. Submission of budget information and legislative recommendations and comments.
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48111. Funding proposals.
48112. Adjustment to AIP program funding.
48113. Reprogramming notification requirement.
48114. Funding for aviation programs.

AMENDMENTS

2003—Pub. L. 108–176, title I, § 104(b), Dec. 12, 2003, 117 Stat. 2497, added item 48114.

2000—Pub. L. 106–181, title I, §§ 107(b), 108(b), Apr. 5, 2000, 114 Stat. 73, 74, added items 48112 and 48113.

1996—Pub. L. 104–264, title I, §§ 102(b)(2), 103(d)(2), title II, § 275(b), Oct. 9, 1996, 110 Stat. 3216, 3217, 3247, inserted ''and equipment'' after ''facilities'' in item 48101, substituted ''Operations and maintenance'' for ''Certain direct costs and joint air navigation services'' in item 48104, and added item 48111.

§ 48101. Air navigation facilities and equipment

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Not more than a total of the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title:

(1) $3,138,000,000 for fiscal year 2004;
(2) $2,993,000,000 for fiscal year 2005;
(3) $3,053,000,000 for fiscal year 2006; and
(4) $3,110,000,000 for fiscal year 2007.

(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

(c) ENHANCED SAFETY AND SECURITY FOR AIRCRAFT OPERATIONS IN THE GULF OF MEXICO.—Of amounts appropriated under subsection (a), such sums as may be necessary for fiscal years 2004 through 2007 may be used to expand and improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather services in the Gulf of Mexico.

(d) OPERATIONAL BENEFITS OF WAKE VORTEX ADVISORY SYSTEM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used for the development and analysis of wake vortex advisory systems.

(e) GROUND-BASED PRECISION NAVIGATIONAL AIDS.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 to 2007 may be used to establish a program for the installation of a precision approach aid designed to improve aircraft accessibility at mountainous airports with limited land if the approach aid is able to provide curved and segmented approach guidance for noise abatement purposes and other such approach aids and is certified or approved by the Administrator.

(f) AUTOMATED SURFACE OBSERVATION SYSTEM/AUTOMATED WEATHER OBSERVING SYSTEM UPGRADE.—Of the amounts appropriated under subsection (a), such sums as may be necessary may be used for the implementation and use of upgrades to the current automated surface observation system/automated weather observing system, if the upgrade is successfully demonstrated.

(g) LIFE-CYCLE COST ESTIMATES.—The Administrator of the Federal Aviation Administration shall establish life-cycle cost estimates for any air traffic control modernization project the total life-cycle costs of which equal or exceed $50,000,000.

(h) STANDBY POWER EFFICIENCY PROGRAM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used by the Secretary of Transportation, in cooperation with the Secretary of Energy and, where applicable, the Secretary of Defense, to establish a program to improve the efficiency, cost effectiveness, and environmental performance of standby power systems at Federal Aviation Administration sites, including the implementation of fuel cell technology.

(i) PILOT PROGRAM TO PROVIDE INCENTIVES FOR DEVELOPMENT OF NEW TECHNOLOGIES.—Of amounts appropriated under subsection (a), $500,000 for fiscal year 2004 may be used for the conduct of a pilot program to provide operating incentives to users of the airspace for the deployment of new technologies, including technologies to facilitate expedited flight routing and sequencing of takeoffs and landings.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1294; Pub. L. 103–305, title I, § 102(a), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 104–264, title I, § 102(a), (b)(1), Oct. 9, 1996, 110 Stat. 3216; Pub. L. 106–6, § 3, Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–181, title I, § 102, Apr. 5, 2000, 114 Stat. 65; Pub. L. 108–176, title I, § 102, Dec. 12, 2003, 117 Stat. 2494.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48101(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2205(a)(1) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 506(a)(1), 96 Stat. 677; restated Dec. 30, 1987, Pub. L. 100–223, § 105(a)(2), 101 Stat. 1490; Nov. 5, 1990, Pub. L. 101–508, § 9105(b), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 103(a), 106 Stat. 4877.
48101(b)	49 App.:2202(a)(24).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:2205(a)(2) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 506(a)(2), 96 Stat. 677; Dec. 30, 1987, Pub. L. 100–223, § 105(a)(2), 101 Stat. 1490; restated Oct. 31, 1992, Pub. L. 102–581, § 103(b), 106 Stat. 4877.
48101(c)	49 App.:2205(a)(1) (last sentence), (2) (last sentence).	

In subsection (a), the words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter. The words ''for fiscal years beginning after September 30, 1990'' and ''$2,500,000,000 for fiscal year 1991'' are omitted as obsolete.

AMENDMENTS

2003—Subsec. (a)(1) to (5). Pub. L. 108–176, § 102(1), added pars. (1) to (4) and struck out formers par. (1) to (5) which read as follows:

''(1) $2,131,000,000 for fiscal year 1999.

''(2) $2,689,000,000 for fiscal year 2000.

''(3) $2,656,765,000 for fiscal year 2001.

''(4) $2,914,000,000 for fiscal year 2002.

''(5) $2,981,022,000 for fiscal year 2003.''

Subsecs. (b) to (e). Pub. L. 108–176, § 102(2), (3), added subsecs. (c) to (e), redesignated former subsec. (c) as (b), and struck out former subsecs. (b), (d) and (e), which related, respectively, to major airway capital investment plan changes, universal access systems, and the Alaska National Air Space Interfacility Communications System.

Subsec. (f). Pub. L. 108–176, § 102(4), struck out ''for fiscal years beginning after September 30, 2000'' after ''appropriated under subsection (a)'' and inserted ''may be used'' after ''may be necessary''.

Subsecs. (h), (i). Pub. L. 108–176, § 102(5), added subsecs. (h) and (i).

2000—Subsec. (a). Pub. L. 106–181, § 102(a), added pars. (1) to (5) and struck out former pars. (1) to (3) which read as follows:

''(1) $2,068,000,000 for fiscal year 1997.

''(2) $2,129,000,000 for fiscal year 1998.

''(3) $2,131,000,000 for fiscal year 1999.''

Subsec. (d). Pub. L. 106–181, § 102(b), added subsec. (d).

Subsec. (e). Pub. L. 106–181, § 102(c), added subsec. (e).

Subsec. (f). Pub. L. 106–181, § 102(d), added subsec. (f).

Subsec. (g). Pub. L. 106–181, § 102(e), added subsec. (g).

1999—Subsec. (a)(3). Pub. L. 106–6 added par. (3).

1996—Pub. L. 104–264, § 102(b)(1), inserted ''and equipment'' after ''facilities'' in section catchline.

Subsec. (a). Pub. L. 104–264, § 102(a), added pars. (1) and (2) and struck out former pars. (1) to (4) which read as follows:

''(1) For the fiscal years ending September 30, 1991–1993, $8,200,000,000.

''(2) For the fiscal years ending September 30, 1991–1994, $10,724,000,000.

''(3) For the fiscal years ending September 30, 1991–1995, $13,394,000,000.

''(4) For the fiscal years ending September 30, 1991–1996, $16,129,000,000.''

1994—Subsec. (a)(1). Pub. L. 103–305, § 102(a)(1), substituted ''For'' for ''for''.

Subsec. (a)(2). Pub. L. 103–305, § 102(a)(2), substituted ''For'' for ''for'' and ''$10,724,000,000'' for ''$11,100,000,000''.

Subsec. (a)(3). Pub. L. 103–305, § 102(a)(3), substituted ''For'' for ''for'' and ''$13,394,000,000'' for ''$14,000,000,000''.

Subsec. (a)(4). Pub. L. 103–305, § 102(a)(4), added par. (4).

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

FACILITIES AND EQUIPMENT REPORTS

Pub. L. 108–176, title I, § 184, Dec. 12, 2003, 117 Stat. 2517, provided that:

''(a) BIANNUAL REPORTS.—Beginning 180 days after the date of enactment of this Act [Dec. 12, 2003], the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure every 6 months that describes—

''(1) the 10 largest programs funded under section 48101(a) of title 49, United States Code;

''(2) any changes in the budget for such programs;

''(3) the program schedule; and

''(4) technical risks associated with the programs.

''(b) SUNSET PROVISION.—This section shall cease to be effective beginning on the date that is 4 years after the date of enactment of this Act [Dec. 12, 2003].''

FUNDING FOR AVIATION PROGRAMS

Pub. L. 106–181, title I, § 106(a)–(c), Apr. 5, 2000, 114 Stat. 72, 73, which related to budget resources made available from the Airport and Airway Trust Fund through fiscal year 2003, was repealed by Pub. L. 108–176, title I, § 104(c), Dec. 12, 2003, 117 Stat. 2497.

§ 48102. Research and development

(a) AUTHORIZATION OF APPROPRIATIONS.—Not more than the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) for conducting civil aviation research and development under sections 44504, 44505, 44507, 44509, and 44511–44513 of this title:

(1) for fiscal year 1995—

(A) $7,673,000 for management and analysis projects and activities;

(B) $80,901,000 for capacity and air traffic management technology projects and activities;

(C) $39,242,000 for communications, navigation, and surveillance projects and activities;

(D) $2,909,000 for weather projects and activities;

(E) $8,660,000 for airport technology projects and activities;

(F) $51,004,000 for aircraft safety technology projects and activities;

(G) $36,604,000 for system security technology projects and activities;

(H) $26,484,000 for human factors and aviation medicine projects and activities;

(I) $8,124,000 for environment and energy projects and activities; and

(J) $5,199,000 for innovative/cooperative research projects and activities;

(2) for fiscal year 1996—

(A) $8,056,000 for management and analysis projects and activities;

(B) $84,946,000 for capacity and air traffic management technology projects and activities;

(C) $41,204,000 for communications, navigation, and surveillance projects and activities;

(D) $3,054,000 for weather projects and activities;

(E) $9,093,000 for airport technology projects and activities;

(F) $53,554,000 for aircraft safety technology projects and activities;

(G) $38,434,000 for system security technology projects and activities;

(H) $27,808,000 for human factors and aviation medicine projects and activities;

(I) $8,532,000 for environment and energy projects and activities; and

(J) $5,459,000 for innovative/cooperative research projects and activities;

(3) for fiscal year 1997—

(A) $13,660,000 for system development and infrastructure projects and activities;

(B) $34,889,000 for capacity and air traffic management technology projects and activities;

(C) $19,000,000 for communications, navigation, and surveillance projects and activities;

(D) $13,000,000 for weather projects and activities;

(E) $5,200,000 for airport technology projects and activities;

(F) $36,504,000 for aircraft safety technology projects and activities;

(G) $57,055,000 for system security technology projects and activities;

(H) $23,504,000 for human factors and aviation medicine projects and activities;

(I) $3,600,000 for environment and energy projects and activities; and

(J) $2,000,000 for innovative/cooperative research projects and activities;

(4) for fiscal year 1998, $226,800,000, including—

(A) $16,379,000 for system development and infrastructure projects and activities;

(B) $27,089,000 for capacity and air traffic management technology projects and activities;

(C) $23,362,000 for communications, navigation, and surveillance projects and activities;

(D) $16,600,000 for weather projects and activities;

(E) $7,854,000 for airport technology projects and activities;

(F) $49,202,000 for aircraft safety technology projects and activities;

(G) $53,759,000 for system security technology projects and activities;

(H) $26,550,000 for human factors and aviation medicine projects and activities;

(I) $2,891,000 for environment and energy projects and activities; and

(J) $3,114,000 for innovative/cooperative research projects and activities, of which $750,000 shall be for carrying out the grant program established under subsection (h);

(5) for fiscal year 1999, $229,673,000;

(6) for fiscal year 2000, $224,000,000, including—

(A) $17,269,000 for system development and infrastructure projects and activities;

(B) $33,042,500 for capacity and air traffic management technology projects and activities;

(C) $11,265,400 for communications, navigation, and surveillance projects and activities;

(D) $19,300,000 for weather projects and activities;

(E) $6,358,200 for airport technology projects and activities;

(F) $44,457,000 for aircraft safety technology projects and activities;

(G) $53,218,000 for system security technology projects and activities;

(H) $26,207,000 for human factors and aviation medicine projects and activities;

(I) $3,481,000 for environment and energy projects and activities; and

(J) $2,171,000 for innovative/cooperative research projects and activities, of which $750,000 shall be for carrying out subsection (h);

(7) for fiscal year 2001, $237,000,000;

(8) for fiscal year 2002, $249,000,000;

(9) for fiscal year 2004, $346,317,000, including—

(A) $65,000,000 for Improving Aviation Safety;

(B) $24,000,000 for Weather Safety Research;

(C) $27,500,000 for Human Factors and Aeromedical Research;

(D) $30,000,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

(E) $7,000,000 for Research Mission Support;

(F) $10,000,000 for the Airport Cooperative Research Program;

(G) $1,500,000 for carrying out subsection (h) of this section;

(H) $42,800,000 for Advanced Technology Development and Prototyping;

(I) $30,300,000 for Safe Flight 21;

(J) $90,800,000 for the Center for Advanced Aviation System Development;

(K) $9,667,000 for Airports Technology-Safety; and

(L) $7,750,000 for Airports Technology-Efficiency;

(10) for fiscal year 2005, $356,192,000, including—

(A) $65,705,000 for Improving Aviation Safety;

(B) $24,260,000 for Weather Safety Research;

(C) $27,800,000 for Human Factors and Aeromedical Research;

(D) $30,109,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

(E) $7,076,000 for Research Mission Support;

(F) $10,000,000 for the Airport Cooperative Research Program;

(G) $1,650,000 for carrying out subsection (h) of this section;

(H) $43,300,000 for Advanced Technology Development and Prototyping;

(I) $31,100,000 for Safe Flight 21;

(J) $95,400,000 for the Center for Advanced Aviation System Development;

(K) $2,200,000 for Free Flight Phase 2;

(L) $9,764,000 for Airports Technology-Safety; and

(M) $7,828,000 for Airports Technology-Efficiency;

(11) for fiscal year 2006, $352,157,000, including—

(A) $66,447,000 for Improving Aviation Safety;

(B) $24,534,000 for Weather Safety Research;

(C) $28,114,000 for Human Factors and Aeromedical Research;

(D) $30,223,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

(E) $7,156,000 for Research Mission Support;

(F) $10,000,000 for the Airport Cooperation Research Program;

(G) $1,815,000 for carrying out subsection (h) of this section;

(H) $42,200,000 for Advanced Technology Development and Prototyping;

(I) $23,900,000 for Safe Flight 21;

(J) $100,000,000 for the Center for Advanced Aviation System Development;

(K) $9,862,000 for Airports Technology-Safety; and

(L) $7,906,000 for Airports Technology-Efficiency; and

(12) for fiscal year 2007, $356,261,000, including—

(A) $67,244,000 for Improving Aviation Safety;

(B) $24,828,000 for Weather Safety Research;

(C) $28,451,000 for Human Factors and Aeromedical Research;

(D) $30,586,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

(E) $7,242,000 for Research Mission Support;

(F) $10,000,000 for the Airport Cooperation Research Program;

(G) $1,837,000 for carrying out subsection (h) of this section;

(H) $42,706,000 for Advanced Technology Development and Prototyping;

(I) $24,187,000 for Safe Flight 21;

(J) $101,200,000 for the Center for Advanced Aviation System Development;

(K) $9,980,000 for Airports Technology-Safety; and

(L) $8,000,000 for Airports Technology-Efficiency.

(b) RESEARCH PRIORITIES.—(1) The Administrator shall consider the advice and recommendations of the research advisory committee established by section 44508 of this title in establishing priorities among major categories of research and development activities carried out by the Federal Aviation Administration.

(2) At least 15 percent of the amount appropriated under subsection (a) of this section shall be for long-term research projects.

(3) At least 3 percent of the amount appropriated under subsection (a) of this section shall be available to the Administrator of the Federal Aviation Administration to make grants under section 44511 of this title.

(c) TRANSFERS BETWEEN CATEGORIES.—(1) Not more than 10 percent of the net amount authorized for a category of projects and activities in a fiscal year under subsection (a) of this section may be transferred to or from that category in that fiscal year.

(2) The Secretary may transfer more than 10 percent of an authorized amount to or from a category only after—

(A) submitting a written explanation of the proposed transfer to the Committees on Science and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

(B) 30 days have passed after the explanation is submitted or each Committee notifies the Secretary in writing that it does not object to the proposed transfer.

(d) AIRPORT CAPACITY RESEARCH AND DEVELOPMENT.—(1) Of the amounts made available under subsection (a) of this section, at least $25,000,000 may be appropriated each fiscal year for research and development under section 44505(a) and (c) of this title on preserving and enhancing airport capacity, including research and development on improvements to airport design standards, maintenance, safety, operations, and environmental concerns.

(2) The Administrator shall submit to the Committees on Science and Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on expenditures made under paragraph (1) of this subsection for each fiscal year. The report shall be submitted not later than 60 days after the end of the fiscal year.

(e) AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH.—Necessary amounts may be appropriated to the Secretary out of amounts in the Fund available for research and development to conduct research under section 44506(a) and (b) of this title.

(f) AVAILABILITY OF AMOUNTS.—Amounts appropriated under subsection (a) of this section remain available until expended.

(h)[1] RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.—

(1) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration shall establish a program to utilize undergraduate and technical colleges, including Historically Black Colleges and Universities and Hispanic Serving Institutions, in research on subjects

[1] So in original. No subsec. (g) has been enacted.

of relevance to the Federal Aviation Administration. Grants may be awarded under this subsection for—

(A) research projects to be carried out at primarily undergraduate institutions and technical colleges;

(B) research projects that combine research at primarily undergraduate institutions and technical colleges with other research supported by the Federal Aviation Administration;

(C) research on future training requirements on projected changes in regulatory requirements for aircraft maintenance and power plant licensees; or

(D) research on the impact of new technologies and procedures, particularly those related to aircraft flight deck and air traffic management functions, on training requirements for pilots and air traffic controllers.

(2) NOTICE OF CRITERIA.—Within 6 months after the date of the enactment of the FAA Research, Engineering, and Development Authorization Act of 1998, the Administrator of the Federal Aviation Administration shall establish and publish in the Federal Register criteria for the submittal of proposals for a grant under this subsection, and for the awarding of such grants.

(3) PRINCIPAL CRITERIA.—The principal criteria for the awarding of grants under this subsection shall be—

(A) the relevance of the proposed research to technical research needs identified by the Federal Aviation Administration;

(B) the scientific and technical merit of the proposed research; and

(C) the potential for participation by undergraduate students in the proposed research.

(4) COMPETITIVE, MERIT-BASED EVALUATION.—Grants shall be awarded under this subsection on the basis of evaluation of proposals through a competitive, merit-based process.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1294; Pub. L. 103–305, title III, § 302, Aug. 23, 1994, 108 Stat. 1589; Pub. L. 104–264, title XI, §§ 1102, 1103, Oct. 9, 1996, 110 Stat. 3278; Pub. L. 104–287, § 5(9), (74), Oct. 11, 1996, 110 Stat. 3389, 3396; Pub. L. 105–155, §§ 2, 3, Feb. 11, 1998, 112 Stat. 5; Pub. L. 106–181, title IX, § 901, Apr. 5, 2000, 114 Stat. 194; Pub. L. 108–176, title VII, §§ 701, 707, Dec. 12, 2003, 117 Stat. 2574, 2582.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48102(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2205(b)(2) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 506(b)(2), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, § 105(b)(1), 101 Stat. 1490; Nov. 3, 1988, Pub. L. 100–591, § 7, 102 Stat. 3014; Nov. 5, 1990, Pub. L. 101–508, § 9202, 104 Stat. 1388–372; Oct. 31, 1992, Pub. L. 102–581, § 302, 106 Stat. 4895.
48102(b)	49 App.:2205(b)(2) (last sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48102(c)	49 App.:2205(b)(3).	Sept. 3, 1982, Pub. L. 97–248, § 506(b)(3), (5), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, § 105(b)(1), 101 Stat. 1491.
48102(d)	49 App.:2205(b)(4).	Sept. 30, 1982, Pub. L. 97–248, § 506(b)(4), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, § 105(b)(1), 101 Stat. 1491; Nov. 5, 1990, Pub. L. 101–508, § 9203, 104 Stat. 1388–373.
48102(e)	49 App.:1353 (note).	Nov. 3, 1988, Pub. L. 100–591, § 8(d), 102 Stat. 3016; Nov. 17, 1988, Pub. L. 100–685, § 604, 102 Stat. 4103.
48102(f)	49 App.:2205(b)(5).	

In subsections (a) and (b), as to applicability of section 305(b) of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 (Pub. L. 102–581, 106 Stat. 4896), see section 6(b) of the bill.

In subsection (a)(1), the word ''solely'' is omitted as surplus. Before clause (1), the words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

In subsection (d)(1), the words ''Notwithstanding any other provision of this subsection'' and ''in each of fiscal years 1988, 1989, 1990, 1991, and 1992'' are omitted as surplus.

In subsection (d)(2), the reference to fiscal years 1988–1992 and the words ''by the Administrator for research and development'' are omitted as surplus.

REFERENCES IN TEXT

The date of the enactment of the FAA Research, Engineering, and Development Authorization Act of 1998, referred to in subsec. (h)(2), is the date of enactment of Pub. L. 105–155, which was approved Feb. 11, 1998.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176, § 701(1), substituted ''for conducting civil aviation research and development under sections 44504'' for ''to carry out sections 44504'' in introductory provisions.

Subsec. (a)(9) to (12). Pub. L. 108–176, § 701(2)–(4), added pars. (9) to (12).

Subsec. (h)(1)(D). Pub. L. 108–176, § 707, added subpar. (D).

2000—Subsec. (a)(6) to (8). Pub. L. 106–181 added pars. (6) to (8).

1998—Subsec. (a)(4). Pub. L. 105–155, § 2, added par. (4).

Subsec. (a)(4)(J). Pub. L. 105–155, § 3(b), inserted '', of which $750,000 shall be for carrying out the grant program established under subsection (h)'' after ''projects and activities''.

Subsec. (a)(5). Pub. L. 105–155, § 2, added par. (5).

Subsec. (h). Pub. L. 105–155, § 3(a), added subsec. (h).

1996—Subsec. (a)(3). Pub. L. 104–264, § 1102, added par. (3).

Subsec. (b). Pub. L. 104–264, § 1103, substituted ''RESEARCH PRIORITIES'' for ''AVAILABILITY FOR RESEARCH'' in heading, added par. (1), and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (c)(2)(A). Pub. L. 104–287, § 5(74), substituted ''Committees on Science'' for ''Committees on Science, Space, and Technology''.

Subsec. (d)(2). Pub. L. 104–287, § 5(74), substituted ''Committees on Science'' for ''Committees on Science, Space, and Technology''.

Pub. L. 104–287, § 5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

1994—Subsec. (a)(1), (2). Pub. L. 103–305 inserted pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) for the fiscal year ending September 30, 1993—

''(A) $14,700,000 only for management and analysis projects and activities.

''(B) $87,000,000 only for capacity and air traffic management technology projects and activities.

''(C) $28,000,000 only for communications, navigation, and surveillance projects and activities.

''(D) $7,700,000 only for weather projects and activities.

''(E) $6,800,000 only for airport technology projects and activities.

''(F) $44,000,000 only for aircraft safety technology projects and activities.

''(G) $41,100,000 only for system security technology projects and activities.

''(H) $31,000,000 only for human factors and aviation medicine projects and activities.

''(I) $4,500,000 for environment and energy projects and activities.

''(J) $5,200,000 for innovative and cooperative research projects and activities.

''(2) for the fiscal year ending September 30, 1994, $297,000,000.''

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

NOTICES

Pub. L. 105–155, § 4, Feb. 11, 1998, 112 Stat. 6, provided that:

''(a) REPROGRAMMING.—If any funds authorized by the amendments made by this Act [amending this section] are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committees on Science [now Science and Technology] and Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

''(b) NOTICE OF REORGANIZATION.—The Administrator of the Federal Aviation Administration shall provide notice to the Committees on Science [now Science and Technology], Transportation and Infrastructure, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 30 days before any major reorganization (as determined by the Administrator) of any program of the Federal Aviation Administration for which funds are authorized by this Act.''

§ 48103. Airport planning and development and noise compatibility planning and programs

The total amounts which shall be available after September 30, 2003, to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c) of this title shall be—

(1) $3,400,000,000 for fiscal year 2004;
(2) $3,500,000,000 for fiscal year 2005;
(3) $3,600,000,000 for fiscal year 2006; and
(4) $3,700,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1296; Pub. L. 103–305, title I, § 101(a), Aug. 23, 1994, 108 Stat. 1570; Pub. L. 104–264, title I, § 101(a), Oct. 9, 1996, 110 Stat. 3216; Pub. L. 105–277, div. C, title I, § 110(b)(1), Oct. 21, 1998, 112 Stat. 2681–587; Pub. L. 106–6, § 2(a), Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–31, title VI, § 6002(a), May 21, 1999, 113 Stat. 113; Pub. L. 106–59, § 1(a), Sept. 29, 1999, 113 Stat. 482; Pub. L. 106–181, title I, § 101(a), Apr. 5, 2000, 114 Stat. 65; Pub. L. 108–176, title I, § 101(a), Dec. 12, 2003, 117 Stat. 2494.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48103	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2204(a) (2d sentence).	Sept. 3, 1982, Pub. L. 97–248, § 505(a) (2d sentence), 96 Stat. 676; Jan. 6, 1983, Pub. L. 97–424, § 426(b)(1)–(5), 96 Stat. 2167; restated Dec. 30, 1987, Pub. L. 100–223, § 105(e), 101 Stat. 1493; Nov. 5, 1990, Pub. L. 101–508, § 9104(1), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 102(a), 106 Stat. 4876.

In this section, references to the aggregate amounts for fiscal years ending before October 1, 1987–1992, are omitted as obsolete. The words ''of which $475,000,000 shall be credited to the supplementary discretionary fund established by section 2206(a)(3)(B)'' are omitted as executed. In restating section 505(a) (2d sentence) of the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 676), the cross-reference to the discretionary fund was retained but is incorrect because of the restatement of section 507 of the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 679) by section 426(a) of the Highway Improvement Act of 1982 (Public Law 97–424, 96 Stat. 2167). See section 47115 of the revised title.

AMENDMENTS

2003—Pub. L. 108–176, § 101(a)(1), substituted ''September 30, 2003'' for ''September 30, 1998'' in introductory provisions.

Pars. (1) to (5). Pub. L. 108–176, § 101(a)(2), added pars. (1) to (4) and struck out former pars. (1) to (5) which read as follows:

''(1) $2,410,000,000 for fiscal year 1999;
''(2) $2,475,000,000 for fiscal year 2000;
''(3) $3,200,000,000 for fiscal year 2001;
''(4) $3,300,000,000 for fiscal year 2002; and
''(5) $3,400,000,000 for fiscal year 2003.''

2000—Pub. L. 106–181 substituted ''shall be—'' along with pars. (1) to (5) and concluding provisions for ''shall be $2,410,000,000 for the fiscal year ending September 30, 1999.''

1999—Pub. L. 106–59 substituted ''$2,410,000,000 for the fiscal year ending September 30, 1999.'' for

''$2,050,000,000 for the period beginning October 1, 1998 and ending August 6, 1999.''

Pub. L. 106–31 substituted ''$2,050,000,000 for the period beginning October 1, 1998 and ending August 6, 1999.'' for ''$1,607,000,000 for the 8-month period beginning October 1, 1998.''.

Pub. L. 106–6 substituted ''$1,607,000,000 for the 8-month period beginning October 1, 1998.'' for ''$1,205,000,000 for the six-month period beginning October 1, 1998''.

1998—Pub. L. 105–277 substituted ''September 30, 1998'' for ''September 30, 1996'' and ''$1,205,000,000 for the six-month period beginning October 1, 1998'' for ''$2,280,000,000 for fiscal years ending before October 1, 1997, and $4,627,000,000 for fiscal years ending before October 1, 1998.''

1996—Pub. L. 104–264 substituted ''September 30, 1996'' for ''September 30, 1981'' and ''$2,280,000,000 for fiscal years ending before October 1, 1997, and $4,627,000,000 for fiscal years ending before October 1, 1998.'' for ''$17,583,500,000 for fiscal years ending before October 1, 1994, $19,744,500,000 for fiscal years ending before October 1, 1995, and $21,958,500,000 for fiscal years ending before October 1, 1996.''

1994—Pub. L. 103–305 substituted ''The total amounts which shall be available after September 30, 1981, to the Secretary of Transportation'' for ''Not more than a total of $15,966,700,000 is available to the Secretary of Transportation for the fiscal years ending September 30, 1982–1993,'' and inserted before period at end ''shall be $17,583,500,000 for fiscal years ending before October 1, 1994, $19,744,500,000 for fiscal years ending before October 1, 1995, and $21,958,500,000 for fiscal years ending before October 1, 1996''.

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

NOTICE OF GRANTS

Pub. L. 106–181, title I, § 159, Apr. 5, 2000, 114 Stat. 90, provided that:

''(a) TIMELY ANNOUNCEMENT.—The Secretary [of Transportation] shall announce a grant to be made with funds made available under section 48103 of title 49, United States Code, in a timely fashion after receiving necessary documentation concerning the grant from the Administrator [of the Federal Aviation Administration].

''(b) NOTICE TO COMMITTEES.—If the Secretary provides any committee of Congress advance notice of a grant to be made with funds made available under section 48103 of title 49, United States Code, the Secretary shall provide, on the same date, such notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.''

§ 48104. Operations and maintenance

(a) AUTHORIZATION OF APPROPRIATIONS.—the[1] balance of the money available in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) may be appropriated to the Secretary of Transportation out of the Fund for—

(1) direct costs the Secretary incurs to flight check, operate, and maintain air navigation facilities referred to in section 44502(a)(1)(A) of this title safely and efficiently; and

(2) the costs of services provided under international agreements related to the joint financing of air navigation services assessed against the United States Government.

[(b), (c). Repealed. Pub. L. 106–181, title I, § 106(d)(2), Apr. 5, 2000, 114 Stat. 73.]

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1296; Pub. L. 103–305, title I, § 102(b), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 104–264, title I, § 103(b), (d)(1), Oct. 9, 1996, 110 Stat. 3216; Pub. L. 104–287, § 5(87), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 106–181, title I, § 106(d), Apr. 5, 2000, 114 Stat. 73.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48104(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2205(c)(1).	Sept. 3, 1982, Pub. L. 97–248, § 506(c)(1), 96 Stat. 678; Dec. 30, 1987, Pub. L. 100–223, § 105(g)(2)(A), (C), 101 Stat. 1494.
48104(b)	49 App.:2205(c)(2).	Sept. 3, 1982, Pub. L. 97–248, § 506(c)(2), 96 Stat. 678; Jan. 6, 1983, Pub. L. 97–424, § 426(c), 96 Stat. 2168; Dec. 30, 1987, Pub. L. 100–223, § 105(g)(2)(B), (C), 101 Stat. 1494.
	49 App.:2205(c)(3).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 506(c)(3); added Dec. 30, 1987, Pub. L. 100–223, § 105(c)(1), 101 Stat. 1492; Nov. 5, 1990, Pub. L. 101–508, § 9107(a), 104 Stat. 1388–355.
	49 App.:2205(c)(4).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 506(c)(4); added Nov. 5, 1990, Pub. L. 101–508, § 9107(b), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 103(c)(1), 106 Stat. 4877.

In subsection (a), before clause (1), the words ''Except as provided in this section'' are added for clarity. The words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

In subsection (b), the text of 49 App.:2205(c)(2) and (3) and the reference to fiscal years 1991 and 1992 in 49 App:2205(c)(4) are omitted as obsolete.

PUB. L. 104–287

This makes a clarifying amendment to the catchline for 49:48104(b).

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–181, § 106(d)(1), struck out ''Except as provided in this section,'' before ''the balance of the money'' in introductory provisions.

Subsecs. (b), (c). Pub. L. 106–181, § 106(d)(2), struck out heading and text of subsecs. (b) and (c), which set out funding limitations for fiscal year 1993 and fiscal years 1994 to 1998, respectively.

1996—Pub. L. 104–264, § 103(d)(1), substituted ''Operations and maintenance'' for ''Certain direct costs and joint air navigation services'' in section catchline.

Subsec. (b). Pub. L. 104–287 substituted ''YEAR'' for ''YEARS'' in heading.

[1] So in original. Probably should be capitalized.

Subsec. (c). Pub. L. 104–264, § 103(b)(1), (2), substituted ''1998'' for ''1996'' in heading and ''1994 through 1998'' for ''1994, 1995, and 1996'' in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 104–264, § 103(b)(3), substituted ''72.5 percent'' for ''70 percent''.

1994—Subsec. (b). Pub. L. 103–305, § 102(b)(1), (2), inserted ''FOR FISCAL YEARS 1993'' in heading and substituted ''fiscal year 1993'' for ''each of the fiscal years ending September 30, 1993–1995,'' in introductory provisions.

Subsec. (c). Pub. L. 103–305, § 102(b)(3), added subsec. (c).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 48105. Weather reporting services

To reimburse the Secretary of Commerce for the cost incurred by the National Oceanic and Atmospheric Administration of providing weather reporting services to the Federal Aviation Administration, the Secretary of Transportation may expend from amounts available under section 48104 of this title not more than the following amounts:

(1) for the fiscal year ending September 30, 1993, $35,596,000.

(2) for the fiscal year ending September 30, 1994, $37,800,000.

(3) for the fiscal year ending September 30, 1995, $39,000,000.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1296.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48105	49 App.:2205(d).	Sept. 3, 1982, Pub. L. 97–248, § 506(d), 96 Stat. 678; Dec. 30, 1987, Pub. L. 100–223, § 105(c)(2), 101 Stat. 1493; Nov. 5, 1990, Pub. L. 101–508, §§ 9108, 9204, 104 Stat. 1388–355, 1388–373; Oct. 31, 1992, Pub. L. 102–581, § 103(d), 106 Stat. 4877.

The words ''for fiscal years beginning after September 30, 1982'' are omitted as obsolete. The words ''Secretary of Commerce'' are substituted for ''National Oceanic and Atmospheric Administration'' because of 15:1501. The words ''The Federal Aviation Administration with'' are omitted as surplus.

§ 48106. Airway science curriculum grants

Amounts are available from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out section 44510 of this title. The amounts remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1296.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48106	49 App.:1354a (2d sentence).	Nov. 5, 1990, Pub. L. 101–516, (2d sentence in par. under heading ''Facilities and Equipment''), 104 Stat. 2160. Oct. 28, 1991, Pub. L. 102–143, (2d sentence in par. under heading ''Facilities and Equipment''), 105 Stat. 922. Oct. 6, 1992, Pub. L. 102–388, (2d sentence in par. under heading ''Facilities and Equipment''), 106 Stat. 1526.

This section is substituted for the source provisions for clarity and because of the restatement.

§ 48107. Civil aviation security research and development

After the review under section 44912(b) of this title is completed, necessary amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants under section 44912(a)(4)(A).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48107	49 App.:1357(d)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(d)(9); added Nov. 16, 1990, Pub. L. 101–604, § 107, 104 Stat. 3077.

The words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

§ 48108. Availability and uses of amounts

(a) AVAILABILITY OF AMOUNTS.—Amounts equal to the amounts authorized under sections 48101–48105 of this title remain in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) until appropriated for the purposes of sections 48101–48105.

(b) LIMITATIONS ON USES.—(1) Amounts in the Fund may be appropriated only to carry out a program or activity referred to in this chapter.

(2) Amounts in the Fund may be appropriated for administrative expenses of the Department of Transportation or a component of the Department only to the extent authorized by section 48104 of this title.

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—In a fiscal year beginning after September 30, 1998, the Secretary of Transportation may obligate or expend an amount appropriated out of the Fund under section 48104 of this title only if a law expressly amends section 48104.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297; Pub. L. 103–305, title I, § 102(c), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 104–264, title I, § 103(c), Oct. 9, 1996, 110 Stat. 3216.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48108(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2205(e)(2).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(2), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, § 105(g)(3), 101 Stat. 1494.
48108(b)(1) ..	49 App.:2205(e)(1).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(1), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, § 105(d)(1), 101 Stat. 1493.
48108(b)(2) ..	49 App.:2205(e)(3).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(3), 96 Stat. 679.
48108(c)	49 App.:2205(e)(5).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(5), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, § 105(d)(2), 101 Stat. 1493; Oct. 31, 1992, Pub. L. 102–581, § 103(c)(2), 106 Stat. 4877.

In subsection (a), the words ''for each fiscal year'' are omitted as surplus.

In subsection (b)(1), the words ''Notwithstanding any other provision of law to the contrary'' are omitted as surplus. The reference to ''this chapter'' is intended to include sections 48106 and 48107 of the revised title for accuracy because the source provisions for those sections were enacted after the source provisions being restated in this section.

In subsection (b)(2), the words ''for any fiscal year'' are omitted as surplus.

In subsection (c), the words ''be construed as'' and ''the purposes described in'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–264 substituted ''1998'' for ''1996''.

1994—Subsec. (c). Pub. L. 103–305 substituted ''1996'' for ''1995''.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 48109. Submission of budget information and legislative recommendations and comments

When the Administrator of the Federal Aviation Administration submits to the Secretary of Transportation, the President, or the Director of the Office of Management and Budget any budget information, legislative recommendation, or comment on legislation about amounts authorized in section 48101 or 48102 of this title, the Administrator concurrently shall submit a copy of the information, recommendation, or comment to the Speaker of the House of Representatives, the Committees on Transportation and Infrastructure and Appropriations of the House, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48109	49 App.:2205(f).	Sept. 3, 1982, Pub. L. 97–248, § 506(f), 96 Stat. 679.

The words ''Director of the Office of Management and Budget'' are substituted for ''Office of Management and Budget'' because of 31:502(a). The words ''or transmits . . . budget estimate, budget request, supplemental budget estimate, or other'' and ''thereof'' are omitted as surplus.

AMENDMENTS

1996—Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

§ 48110. Facilities for advanced training of maintenance technicians for air carrier aircraft

For the fiscal years ending September 30, 1993–1995, amounts necessary to carry out section 44515 of this title may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502). The amounts remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48110	49 App.:1354 (note).	Oct. 31, 1992, Pub. L. 102–581, § 119(d), 106 Stat. 4884.

The words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

§ 48111. Funding proposals

(a) INTRODUCTION IN THE SENATE.—Within 15 days (not counting any day on which the Senate is not in session) after a funding proposal is submitted to the Senate by the Secretary of Transportation under section 274(c) of the Air Traffic Management System Performance Improvement Act of 1996, an implementing bill with respect to such funding proposal shall be introduced in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate.

(b) CONSIDERATION IN THE SENATE.—An implementing bill introduced in the Senate under subsection (a) shall be referred to the Committee on Commerce, Science, and Transportation. The Committee on Commerce, Science, and Transportation shall report the bill with its recommendations within 60 days following the date of introduction of the bill. Upon the reporting of the bill by the Committee on Commerce, Science, and Transportation, the reported bill shall be referred sequentially to the Committee on Finance for a period of 60 legislative days.

(c) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) IMPLEMENTING BILL.—The term ''implementing bill'' means only a bill of the Senate which is introduced as provided in subsection (a) with respect to one or more Federal Aviation Administration funding proposals which contain changes in existing laws or new statutory authority required to implement such funding proposal or proposals.

(2) FUNDING PROPOSAL.—The term ''funding proposal'' means a proposal to provide interim

or permanent funding for operations of the Federal Aviation Administration.

(d) RULES OF THE SENATE.—The provisions of this section are enacted—

(1) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(Added Pub. L. 104–264, title II, § 275(a), Oct. 9, 1996, 110 Stat. 3246.)

REFERENCES IN TEXT

Section 274(c) of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (a), is section 274(c) of Pub. L. 104–264, which is set out as a note under section 40101 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§ 48112. Adjustment to AIP program funding

On the effective date of a general appropriations Act providing appropriations for a fiscal year beginning after September 30, 2000, for the Federal Aviation Administration, the amount made available for a fiscal year under section 48103 shall be increased by the amount, if any, by which—

(1) the amount authorized to be appropriated under section 48101 for such fiscal year; exceeds

(2) the amounts appropriated for programs funded under such section for such fiscal year.

Any contract authority made available by this section shall be subject to an obligation limitation.

(Added Pub. L. 106–181, title I, § 107(a), Apr. 5, 2000, 114 Stat. 73.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 48113. Reprogramming notification requirement

Before reprogramming any amounts appropriated under section 106(k), 48101(a), or 48103, for which notification of the Committees on Appropriations of the Senate and the House of Representatives is required, the Secretary of Transportation shall transmit a written explanation of the proposed reprogramming to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 106–181, title I, § 108(a), Apr. 5, 2000, 114 Stat. 73.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 48114. Funding for aviation programs

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—

(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2007 pursuant to sections 48101, 48102, 48103, and 106(k) of title 49, United States Code, shall be equal to the level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year. Such amounts may be used only for aviation investment programs listed in subsection (b).

(B) GUARANTEE.—No funds may be appropriated or limited for aviation investment programs listed in subsection (b) unless the amount described in subparagraph (A) has been provided.

(2) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—In any fiscal year through fiscal year 2007, if the amount described in paragraph (1) is appropriated, there is further authorized to be appropriated from the general fund of the Treasury such sums as may be necessary for the Federal Aviation Administration Operations account.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) TOTAL BUDGET RESOURCES.—The term ''total budget resources'' means the total amount made available from the Airport and Airway Trust Fund for the sum of obligation limitations and budget authority made available for a fiscal year for the following budget accounts that are subject to the obligation limitation on contract authority provided in this title and for which appropriations are provided pursuant to authorizations contained in this title:

(A) 69–8106–0–7–402 (Grants in Aid for Airports).

(B) 69–8107–0–7–402 (Facilities and Equipment).

(C) 69–8108–0–7–402 (Research and Development).

(D) 69–8104–0–7–402 (Trust Fund Share of Operations).

(2) LEVEL OF RECEIPTS PLUS INTEREST.—The term ''level of receipts plus interest'' means the level of excise taxes and interest credited to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President's budget baseline projection as defined in

section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) (Treasury identification code 20–8103–0–7–402) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

(c) ENFORCEMENT OF GUARANTEES.—

(1) TOTAL AIRPORT AND AIRWAY TRUST FUND FUNDING.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause total budget resources in a fiscal year for aviation investment programs described in subsection (b) to be less than the amount required by subsection (a)(1)(A) for such fiscal year.

(2) CAPITAL PRIORITY.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that provides an appropriation (or any amendment thereto) for any fiscal year through fiscal year 2007 for Research and Development or Operations if the sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in-Aid for Airports and for Facilities and Equipment for such fiscal year.

(Added Pub. L. 108–176, title I, § 104(a), Dec. 12, 2003, 117 Stat. 2496.)

REFERENCES IN TEXT

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (b)(2), is classified to section 9502 of Title 26, Internal Revenue Code.

Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (b)(2), is classified to section 907 of Title 2, The Congress.

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

CHAPTER 482—ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FACILITIES

Sec.
48201. Advance appropriations.

§ 48201. Advance appropriations

(a) MULTIYEAR AUTHORIZATIONS.—Beginning with fiscal year 1999, any authorization of appropriations for an activity for which amounts are to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 shall provide funds for a period of not less than 3 fiscal years unless the activity for which appropriations are authorized is to be concluded before the end of that period.

(b) MULTIYEAR APPROPRIATIONS.—Beginning with fiscal year 1999, amounts appropriated from the Airport and Airway Trust Fund shall be appropriated for periods of 3 fiscal years rather than annually.

(Added Pub. L. 104–264, title II, § 277(a), Oct. 9, 1996, 110 Stat. 3248.)

REFERENCES IN TEXT

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 9502 of Title 26, Internal Revenue Code.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

CHAPTER 483—AVIATION SECURITY FUNDING

Sec.
48301. Aviation security funding.

§ 48301. Aviation security funding

(a) IN GENERAL.—There are authorized to be appropriated for fiscal years 2002, 2003, 2004, 2005, 2007, 2008, 2009, 2010, and 2011 such sums as may be necessary to carry out chapter 449 and related aviation security activities under this title. Any amounts appropriated pursuant to this section for fiscal year 2002 shall remain available until expended.

(b) GRANTS FOR AIRCRAFT SECURITY.—There is authorized to be appropriated $500,000,000 for fiscal year 2002 to the Secretary of Transportation to make grants to or other agreements with air carriers (including intrastate air carriers) to—

(1) fortify cockpit doors to deny access from the cabin to the pilots in the cockpit;

(2) provide for the use of video monitors or other devices to alert the cockpit crew to activity in the passenger cabin;

(3) ensure continuous operation of the aircraft transponder in the event the crew faces an emergency; and

(4) provide for the use of other innovative technologies to enhance aircraft security.

(Added Pub. L. 107–71, title I, § 118(c)(1), Nov. 19, 2001, 115 Stat. 627; amended Pub. L. 108–458, title IV, § 4029, Dec. 17, 2004, 118 Stat. 3727; Pub. L. 110–53, title XVI, § 1618, Aug. 3, 2007, 121 Stat. 489.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–53 substituted ''2007, 2008, 2009, 2010, and 2011'' for ''and 2006''.

2004—Subsec. (a). Pub. L. 108–458 substituted ''2005, and 2006'' for ''and 2005''.

PART D—PUBLIC AIRPORTS

CHAPTER 491—METROPOLITAN WASHINGTON AIRPORTS

Sec.
49101. Findings.
49102. Purpose.
49103. Definitions.
49104. Lease of Metropolitan Washington Airports.
49105. Capital improvements, construction, and rehabilitation.
49106. Metropolitan Washington Airports Authority.
49107. Federal employees at Metropolitan Washington Airports.

Sec.
49108. Limitations.
49109. Nonstop flights.
49110. Use of Dulles Airport Access Highway.
49111. Relationship to and effect of other laws.
49112. Separability and effect of judicial order.

§ 49101. Findings

Congress finds that—

(1) the 2 federally owned airports in the metropolitan area of the District of Columbia constitute an important and growing part of the commerce, transportation, and economic patterns of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the 2 federally owned airports, and timely Federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet the growing air traffic needs and to compete with other airports on a fair basis;

(3) the United States Government has a continuing but limited interest in the operation of the 2 federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local authority will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95–504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the 2 airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the United States Government and State governments involved;

(7) in recognition of a perceived limited need for a Federal role in the management of these airports and the growing local interest, the Secretary of Transportation has recommended a transfer of authority from the Federal to the local/State level that is consistent with the management of major airports elsewhere in the United States;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by Virginia and the District of Columbia; and

(10) the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2206.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49101	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6002, 100 Stat. 1783–373. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6002, 100 Stat. 3341–376.

In clause (4), the word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

The Airline Deregulation Act of 1978, referred to in par. (4), is Pub. L. 95–504, Oct. 24, 1978, 92 Stat. 1705, as amended, which was classified principally to sections of former Title 49, Transportation. The Act was substantially repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

PRIOR PROVISIONS

A prior section 49101 was renumbered section 50101 of this title.

§ 49102. Purpose

(a) GENERAL.—The purpose of this chapter is to authorize the transfer of operating responsibility under long-term lease of the 2 Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by Virginia and the District of Columbia, in order to achieve local control, management, operation, and development of these important transportation assets.

(b) INCLUSION OF BALTIMORE/WASHINGTON INTERNATIONAL AIRPORT NOT PRECLUDED.—This chapter does not prohibit the Airports Authority and Maryland from making an agreement to make Baltimore/Washington International Airport part of a regional airports authority, subject to terms agreed to by the Airports Authority, the Secretary of Transportation, Virginia, the District of Columbia, and Maryland.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2207.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49102(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6003(a), 100 Stat. 1783–374. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6003(a), 100 Stat. 3341–377.
49102(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6003(b), 100 Stat. 1783–374. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6003(b), 100 Stat. 3341–377.

In subsection (b), the words ''and conditions'' are omitted as being included in ''terms''.

PRIOR PROVISIONS

A prior section 49102 was renumbered section 50102 of this title.

§ 49103. Definitions

In this chapter—

(1) ''Airports Authority'' means the Metropolitan Washington Airports Authority, a public authority created by Virginia and the District of Columbia consistent with the requirements of section 49106 of this title.

(2) ''employee'' means any permanent Federal Aviation Administration personnel employed by the Metropolitan Washington Airports on June 7, 1987.

(3) ''Metropolitan Washington Airports'' means Ronald Reagan Washington National Airport and Washington Dulles International Airport.

(4) ''Washington Dulles International Airport'' means the airport constructed under the Act of September 7, 1950 (ch. 905, 64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between Interstate Routes I–495 and I–66.

(5) ''Ronald Reagan Washington National Airport'' means the airport described in the Act of June 29, 1940 (ch. 444, 54 Stat. 686).

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2207; amended Pub. L. 105–154, § 2(a)(1)(D), Feb. 6, 1998, 112 Stat. 3.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49103	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6004, 100 Stat. 1783–374. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6004, 100 Stat. 3341–377.

In this section, the text of section 6004(1) and (5) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–374, 1783–375, Public Law 99–591, 100 Stat. 3341–378) is omitted as surplus because the complete names of the Administrator of the Federal Aviation Administration and the Secretary of Transportation are used the first time those terms appear in a section.

In clause (1), the words ''an organization within the Federal Aviation Administration'' are omitted as surplus.

REFERENCES IN TEXT

Act of September 7, 1950, ch. 905, 64 Stat. 770, referred to in par. (4), was classified to subchapter II (§ 2421 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

Act of June 29, 1940, ch. 444, 54 Stat. 686, referred to in par. (5), was classified to subchapter I (§ 2401 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

PRIOR PROVISIONS

A prior section 49103 was renumbered section 50103 of this title.

AMENDMENTS

1998—Pars. (3), (5). Pub. L. 105–154 substituted ''Ronald Reagan Washington National Airport'' for ''Washington National Airport''.

CHANGE OF NAME

Pub. L. 105–154, § 1, Feb. 6, 1998, 112 Stat. 3, provided that: ''The airport described in the Act entitled 'An Act to provide for the administration of the Washington National Airport, and for other purposes', approved June 29, 1940 (54 Stat. 686) [section 2401 et seq. of former Title 49, Transportation, see References in Text note above], and known as the Washington National Airport, shall be known and designated as the 'Ronald Reagan Washington National Airport'.''

Pub. L. 105–154, § 2(b), Feb. 6, 1998, 112 Stat. 4, provided that: ''Any reference in a law, map, regulation, document, paper, or other record of the United States to the Washington National Airport shall be deemed to be a reference to the 'Ronald Reagan Washington National Airport'.''

§ 49104. Lease of Metropolitan Washington Airports

(a) GENERAL.—The lease between the Secretary of Transportation and the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500; 100 Stat. 1783–375; Public Law 99–591; 100 Stat. 3341–378), for the Metropolitan Washington Airports must provide during its 50-year term at least the following:

(1) The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2)(A) In this paragraph, ''airport purposes'' means a use of property interests (except a sale) for—

(i) aviation business or activities;

(ii) activities necessary or appropriate to serve passengers or cargo in air commerce; or

(iii) nonprofit, public use facilities that are not inconsistent with the needs of aviation.

(B) During the period of the lease, the real property constituting the Metropolitan Washington Airports shall be used only for airport purposes.

(C) If the Secretary decides that any part of the real property leased to the Airports Authority under this chapter is used for other than airport purposes, the Secretary shall—

(i) direct that the Airports Authority take appropriate measures to have that part of the property be used for airport purposes; and

(ii) retake possession of the property if the Airports Authority fails to have that part of the property be used for airport purposes within a reasonable period of time, as the Secretary decides.

(3) The Airports Authority is subject to section 47107(a)–(c) and (e) of this title and to the assurances and conditions required of grant recipients under the Airport and Airway Improvement Act of 1982 (Public Law 97–248; 96 Stat. 671) as in effect on June 7, 1987. Notwithstanding section 47107(b) of this title, all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of the Metropolitan Washington Airports.

(4) In acquiring by contract supplies or services for an amount estimated to be more than $200,000, or awarding concession contracts, the Airports Authority to the maximum extent

practicable shall obtain complete and open competition through the use of published competitive procedures. By a vote of 7 members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5)(A) Except as provided in subparagraph (B) of this paragraph, all regulations of the Metropolitan Washington Airports (14 CFR part 159) become regulations of the Airports Authority as of June 7, 1987, and remain in effect until modified or revoked by the Airports Authority under procedures of the Airports Authority.

(B) Sections 159.59(a) and 159.191 of title 14, Code of Federal Regulations, do not become regulations of the Airports Authority.

(C) The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by the High Density Rule (14 CFR 93.121 et seq.) at Ronald Reagan Washington National Airport on October 18, 1986, and may not impose a limitation on the number of passengers taking off or landing at Ronald Reagan Washington National Airport.

(D) Subparagraph (C) does not apply to any increase in the number of instrument flight rule takeoffs and landings necessary to implement exemptions granted by the Secretary under section 41718.

(6)(A) Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations of the Metropolitan Washington Airports on June 7, 1987, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation related to those rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. The Airports Authority must cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of duties and powers related to the period before June 7, 1987. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) The procedure for disputes resolution contained in any contract entered into on behalf of the United States Government before June 7, 1987, continues to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the Government as the owner and operator of the Metropolitan Washington Airports, arising before June 7, 1987, shall be adjudicated as if the lease had not been entered into.

(C) The Administration is responsible for reimbursing the Employees' Compensation Fund, as provided in section 8147 of title 5, for compensation paid or payable after June 7, 1987, in accordance with chapter 81 of title 5 for any injury, disability, or death due to events arising before June 7, 1987, whether or not a claim was filed or was final on that date.

(D) The Airports Authority shall continue all collective bargaining rights enjoyed by employees of the Metropolitan Washington Airports before June 7, 1987.

(7) The Comptroller General may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under regulations the Comptroller General may prescribe. An audit shall be conducted where the Comptroller General considers it appropriate. All records and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) The Airports Authority shall develop a code of ethics and financial disclosure to ensure the integrity of all decisions made by its board of directors and employees. The code shall include standards by which members of the board will decide, for purposes of section 49106(d) of this title, what constitutes a substantial financial interest and the circumstances under which an exception to the conflict of interest prohibition may be granted.

(9) A landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may not be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Ronald Reagan Washington National Airport; and

(B) at Ronald Reagan Washington National Airport may not be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee that is not more than the landing fee for aircraft weighing 12,500 pounds.

(11) The Secretary shall include other terms applicable to the parties to the lease that are consistent with, and carry out, this chapter.

(b) PAYMENTS.—Under the lease, the Airports Authority must pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator, equal to $3,000,000 in 1987 dollars. The Secretary and the Airports Authority may renegotiate the level of lease payments attributable to inflation costs every 10 years.

(c) ENFORCEMENT OF LEASE PROVISIONS.—The district courts of the United States have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. The Attorney General or an aggrieved party may bring an action on behalf of the Government.

(d) EXTENSION OF LEASE.—The Secretary and the Airports Authority may at any time negotiate an extension of the lease.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2207; amended Pub. L. 105–154, § 2(a)(1)(D), Feb. 6, 1998, 112 Stat. 3; Pub. L. 106–181, title II, § 231(e)(2), Apr. 5, 2000, 114 Stat. 113.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49104(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §§6005(a), (d), 6007(d) (last sentence), 100 Stat. 1783–375, 1783–376, 1783–380. Oct. 18, 1986, Pub. L. 99–500, title VI, §6005(c), 100 Stat. 1783–376; Oct. 9, 1996, Pub. L. 104–264, title IX, §902, 110 Stat. 3274. Oct. 30, 1986, Pub. L. 99–591, title VI, §§6005(a), (d), 6007(d) (last sentence), 100 Stat. 3341–378, 3341–379, 3341–383. Oct. 30, 1986, Pub. L. 99–591, title VI, §6005(c), 100 Stat. 3341–379; Oct. 9, 1996, Pub. L. 104–264, title IX, §902, 110 Stat. 3274.
49104(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6005(b), 100 Stat. 1783–375. Oct. 30, 1986, Pub. L. 99–591, title VI, §6005(b), 100 Stat. 3341–378.
49104(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6005(e), 100 Stat. 1783–378. Oct. 30, 1986, Pub. L. 99–591, title VI, §6005(e), 100 Stat. 3341–381.
49104(d)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6010, 100 Stat. 1783–385. Oct. 30, 1986, Pub. L. 99–591, title VI, §6010, 100 Stat. 3341–388.

In subsection (a), before clause (1), the text of section 6005(a) and (d) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–375, 1783–378, Public Law 99–591, 100 Stat. 3341–378, 3341–381) is omitted as executed. The words ''conditions and requirements'' are omitted as surplus. In clause (5)(B), the words ''(relating to new-technology aircraft)'' and ''(relating to violations of Federal Aviation Administration regulations as Federal misdemeanors)'' are omitted as surplus. In clause (5)(C), the words ''after the date the lease takes effect'' are omitted as obsolete. In clause (6)(A), the words ''(tangible and incorporeal, present and executory)'' are omitted as surplus. The words ''The Airports Authority must'' are substituted for ''Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to'' to eliminate obsolete words. The words ''duties and powers'' are substituted for ''functions'' for consistency in the revised title and with other titles of the United States Code. In clause (7), the words ''or places'' are omitted because of 1:1. The words ''books, accounts . . . reports, files, papers'' are omitted as being included in ''reports''. In clause (8), the words ''for purposes of section 49106(d) of this title'' are added for clarity. In clause (9), before subclause (A), the words ''Notwithstanding any other provision of law'' are omitted as surplus. In clause (11), the words ''and conditions'' are omitted as being included in ''terms''.

In subsection (b), the text of section 6005(b)(2) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–375, Public Law 99–591, 100 Stat. 3341–378) is omitted as executed.

REFERENCES IN TEXT

Section 6005(a) of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (a), is section 6005(a) of Pub. L. 99–500, title VI, Oct. 18, 1986, 100 Stat. 1783–375, and Pub. L. 99–591, title VI, Oct. 30, 1986, 100 Stat. 3341–378, which was classified to section 2454(a) of former Title 49, Transportation, and was repealed and reenacted as subsec. (a) of this section by Pub. L. 105–102, §§2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217.

The Airport and Airway Improvement Act of 1982, referred to in subsec. (a)(3), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, as amended, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as subchapter I of chapter 471 of Title 49, Transportation.

PRIOR PROVISIONS

A prior section 49104 was renumbered section 50104 of this title.

AMENDMENTS

2000—Subsec. (a)(5)(D). Pub. L. 106–181 added subpar. (D).

1998—Subsec. (a)(5)(C), (9)(A), (B). Pub. L. 105–154 substituted ''Ronald Reagan Washington National Airport'' for ''Washington National Airport'' wherever appearing.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 49105. Capital improvements, construction, and rehabilitation

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Metropolitan Washington Airports Authority—

(1) should pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Ronald Reagan Washington National Airport simultaneously; and

(2) to the extent practicable, should cause the improvement, construction, and rehabilitation proposed by the Secretary of Transportation to be completed at Washington Dulles International Airport and Ronald Reagan Washington National Airport within 5 years after March 30, 1988.

(b) SECRETARY'S ASSISTANCE.—The Secretary shall assist the 3 airports serving the District of Columbia metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for United States Government financial assistance by whichever of the 3 airports is most in need of increasing airside capacity.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2210; amended Pub. L. 105–154, §2(a)(1)(D), Feb. 6, 1998, 112 Stat. 3.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49105(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6006(a), 100 Stat. 1783–378. Oct. 30, 1986, Pub. L. 99–591, title VI, §6006(a), 100 Stat. 3341–381.
49105(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6006(b), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, §6006(b), 100 Stat. 3341–382.

PRIOR PROVISIONS

A prior section 49105 was renumbered section 50105 of this title.

AMENDMENTS

1998—Subsec. (a)(1), (2). Pub. L. 105–154 substituted ''Ronald Reagan Washington National Airport'' for ''Washington National Airport''.

§ 49106. Metropolitan Washington Airports Authority

(a) STATUS.—The Metropolitan Washington Airports Authority shall be—

(1) a public body corporate and politic with the powers and jurisdiction—

(A) conferred upon it jointly by the legislative authority of Virginia and the District of Columbia or by either of them and concurred in by the legislative authority of the other jurisdiction; and

(B) that at least meet the specifications of this section and section 49108 of this title;

(2) independent of Virginia and its local governments, the District of Columbia, and the United States Government; and

(3) a political subdivision constituted only to operate and improve the Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(b) GENERAL AUTHORITY.—(1) The Airports Authority shall be authorized—

(A) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(B) to issue bonds from time to time in its discretion for public purposes, including paying any part of the cost of airport improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment for the airports;

(C) to acquire real and personal property by purchase, lease, transfer, or exchange;

(D) to exercise the powers of eminent domain in Virginia that are conferred on it by Virginia;

(E) to levy fees or other charges; and

(F) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration was authorized to do so on October 18, 1986.

(2) Bonds issued under paragraph (1)(B) of this subsection—

(A) are not a debt of Virginia, the District of Columbia, or a political subdivision of Virginia or the District of Columbia; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not any part of the projects are financed from the proceeds of the bonds.

(c) BOARD OF DIRECTORS.—(1) The Airports Authority shall be governed by a board of directors composed of the following 13 members:

(A) 5 members appointed by the Governor of Virginia;

(B) 3 members appointed by the Mayor of the District of Columbia;

(C) 2 members appointed by the Governor of Maryland; and

(D) 3 members appointed by the President with the advice and consent of the Senate.

(2) The chairman of the board shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(3) Members of the board shall be appointed to the board for 6 years, except that of the members first appointed by the President after October 9, 1996, one shall be appointed for 4 years. A member may serve after the expiration of that member's term until a successor has taken office.

(4) A member of the board—

(A) may not hold elective or appointive political office;

(B) serves without compensation except for reasonable expenses incident to board functions; and

(C) must reside within the Washington Standard Metropolitan Statistical Area, except that a member of the board appointed by the President must be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.

(5) A vacancy in the board shall be filled in the manner in which the original appointment was made. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(6)(A) Not more than 2 of the members of the board appointed by the President may be of the same political party.

(B) In carrying out their duties on the board, members appointed by the President shall ensure that adequate consideration is given to the national interest.

(C) A member appointed by the President may be removed by the President for cause.

(7) Eight votes are required to approve bond issues and the annual budget.

(d) CONFLICTS OF INTEREST.—Members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. The official appointing a member may make an exception if the financial interest is completely disclosed when the member is appointed and the member does not participate in board decisions that directly affect the interest.

(e) CERTAIN ACTIONS TO BE TAKEN BY REGULATION.—An action of the Airports Authority changing, or having the effect of changing, the hours of operation of, or the type of aircraft serving, either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(f) ADMINISTRATIVE.—To assist the Secretary in carrying out this chapter, the Secretary may hire 2 staff individuals to be paid by the Airports Authority. The Airports Authority shall provide clerical and support staff that the Secretary may require.

(g) REVIEW OF CONTRACTING PROCEDURES.—The Comptroller General shall review contracts of the Airports Authority to decide whether the contracts were awarded by procedures that follow sound Government contracting principles and comply with section 49104(a)(4) of this title. The Comptroller General shall submit periodic

reports of the conclusions reached as a result of the review to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2210; amended Pub. L. 105–225, § 7(c)(1)(A), (B), Aug. 12, 1998, 112 Stat. 1511; Pub. L. 106–181, title II, § 231(i), Apr. 5, 2000, 114 Stat. 115.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49106(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(a), (b), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(a), (b), 100 Stat. 3341–382.
49106(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(c), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(c), 100 Stat. 3341–382.
49106(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(e), 100 Stat. 1783–380; Oct. 9, 1996, Pub. L. 104–264, title IX, § 903, 110 Stat. 3275. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(e), 100 Stat. 3341–383; Oct. 9, 1996, Pub. L. 104–264, title IX, § 903, 110 Stat. 3275.
49106(d)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(d) (1st, 2d sentences), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(d) (1st, 2d sentences), 100 Stat. 3341–382.
49106(e)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(f), 100 Stat. 1783–382; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(a), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(f), 100 Stat. 3341–385; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(a), 110 Stat. 3276.
49106(f)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(h), 100 Stat. 1783–382; Dec. 18, 1991, Pub. L. 102–240, title VII, § 7002(e), 105 Stat. 2200; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(b), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(h), 100 Stat. 3341–385; Dec. 18, 1991, Pub. L. 102–240, title VII, § 7002(e), 105 Stat. 2200; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(b), 110 Stat. 3276.
49106(g)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(g), as added Dec. 18, 1991, Pub. L. 102–240, title VII, § 7002(h), 105 Stat. 2202; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(a), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(g), as added Dec. 18, 1991, Pub. L. 102–240, title VII, § 7002(h), 105 Stat. 2202; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(a), 110 Stat. 3276.

In subsection (b)(2)(A), the words ''Virginia, the District of Columbia'' are substituted for ''either jurisdiction'' for clarity.

In subsection (c)(6)(C), the words ''the limitations described in'' are omitted as unnecessary. The word ''until'' is substituted for ''for the period beginning on October 1, 1997, and ending on the first day on which'' to eliminate unnecessary words.

In subsection (d), the words ''The Airports Authority shall be subject to a conflict-of-interest provision providing that'' are omitted as surplus.

In subsection (g), the words ''Committee on Transportation and Infrastructure'' are substituted for ''Committee on Public Works and Transportation'' because of the amendment of clause 1(q) of Rule X of the Rules of the House of Representatives by section 202(a) of H. Res. 6, approved January 4, 1995.

AMENDMENTS

2000—Subsec. (c)(6)(C), (D). Pub. L. 106–181 redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: ''The members to be appointed under paragraph (1)(D) of this subsection must be appointed before October 1, 1997. If the deadline is not met, the Secretary of Transportation and the Airports Authority are subject to the limitations of section 49108 of this title until all members referred to in paragraph (1)(D) are appointed.''

1998—Subsec. (b)(1)(F). Pub. L. 105–225, § 7(c)(1)(A), substituted ''1986'' for ''1996''.

Subsec. (c)(3). Pub. L. 105–225, § 7(c)(1)(B), substituted ''to the board'' for ''by the board''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–225, § 7(c)(3), Aug. 12, 1998, 112 Stat. 1512, provided that: ''The amendments made by this subsection [amending this section and sections 49107 and 49111 of this title and provisions set out as a note preceding section 101 of this title] are effective as of November 20, 1997.''

§ 49107. Federal employees at Metropolitan Washington Airports

(a) LABOR AGREEMENTS.—(1) The Metropolitan Washington Airports Authority shall adopt all labor agreements that were in effect on June 7, 1987. Unless the parties otherwise agree, the agreements must be renegotiated before June 7, 1992.

(2) Employee protection arrangements made under this section shall ensure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(b) CIVIL SERVICE RETIREMENT.—Any Federal employee who transferred to the Airports Authority and who on June 6, 1987, was subject to subchapter III of chapter 83 or chapter 84 of title 5, is subject to subchapter III of chapter 83 or chapter 84 for so long as continually employed by the Airports Authority without a break in service. For purposes of subchapter III of chapter 83 and chapter 84, employment by the Airports Authority without a break in continuity of service is deemed to be employment by the United States Government. The Airports Authority is the employing agency for purposes of subchapter III of chapter 83 and chapter 84 and shall contribute to the Civil Service Retirement and Disability Fund amounts required by subchapter III of chapter 83 and chapter 84.

(c) ACCESS TO RECORDS.—The Airports Authority shall allow representatives of the Secretary of Transportation adequate access to employees and employee records of the Airports Authority when needed to carry out a duty or power related to the period before June 7, 1987. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2212; amended Pub. L. 105–225, § 7(c)(1)(C), Aug. 12, 1998, 112 Stat. 1511.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49107(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6008(a)–(d), (f), 100 Stat. 1783–382, 1783–383. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6008(a)–(d), (f), 100 Stat. 3341–385, 3341–387.
49107(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6008(e), 100 Stat. 1783–383. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6008(e), 100 Stat. 3341–386.
49107(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6008(g), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6008(g), 100 Stat. 3341–387.

In subsection (a)(1), the text of section 6008(a), (b)(2d and last sentences), (c), (d), and (f) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat, 1783–382, 1783–383, Public Law 99–591, 100 Stat. 3341–385, 3341–386, 3341–387) is omitted as obsolete.

In subsection (c), the words ''duty or power'' are substituted for ''functions'' for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–225 substituted ''is subject to subchapter III'' for ''is subject to subchapter II''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–225 effective Nov. 20, 1997, see section 7(c)(3) of Pub. L. 105–225, set out as a note under section 49106 of this title.

RETIREMENT PROVISIONS RELATING TO CERTAIN MEMBERS OF POLICE FORCE OF METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

Pub. L. 106–554, § 1(a)(3) [title VI, § 636], Dec. 21, 2000, 114 Stat. 2763, 2763A–164, provided that:

''(a) QUALIFIED MWAA POLICE OFFICER DEFINED.—For purposes of this section, the term 'qualified MWAA police officer' means any individual who, as of the date of the enactment of this Act [Dec. 21, 2000]—

''(1) is employed as a member of the police force of the Metropolitan Washington Airports Authority (hereafter in this section referred to as an 'MWAA police officer'); and

''(2) is subject to the Civil Service Retirement System or the Federal Employees' Retirement System by virtue of section 49107(b) of title 49, United States Code.

''(b) ELIGIBILITY TO BE TREATED AS A LAW ENFORCEMENT OFFICER FOR RETIREMENT PURPOSES.—

''(1) IN GENERAL.—Any qualified MWAA police officer may, by written election submitted in accordance with applicable requirements under subsection (c), elect to be treated as a law enforcement officer (within the meaning of section 8331 or 8401 of title 5, United States Code, as applicable), and to have all prior service described in paragraph (2) similarly treated.

''(2) PRIOR SERVICE DESCRIBED.—The service described in this paragraph is all service which an individual performed, prior to the effective date of such individual's election under this section, as—

''(A) an MWAA police officer; or

''(B) a member of the police force of the Federal Aviation Administration (hereafter in this section referred to as an 'FAA police officer').

''(c) REGULATIONS.—The Office of Personnel Management shall prescribe any regulations necessary to carry out this section, including provisions relating to the time, form, and manner in which any election under this section shall be made. Such an election shall not be effective unless—

''(1) it is made before the employee separates from service with the Metropolitan Washington Airports Authority, but in no event later than 1 year after the regulations under this subsection take effect; and

''(2) it is accompanied by payment of an amount equal to, with respect to all prior service of such employee which is described in subsection (b)(2)—

''(A) the employee deductions that would have been required for such service under chapter 83 or 84 of title 5, U.S.C. (as the case may be) if such election had then been in effect, minus

''(B) the total employee deductions and contributions under such chapter 83 and 84 (as applicable) that were actually made for such service,

taking into account only amounts required to be credited to the Civil Service Retirement and Disability Fund. Any amount under paragraph (2) shall be computed with interest, in accordance with section 8334(e) of such title 5.

''(d) GOVERNMENT CONTRIBUTIONS.—Whenever a payment under subsection (c)(2) is made by an individual with respect to such individual's prior service (as described in subsection (b)(2)), the Metropolitan Washington Airports Authority shall pay into the Civil Service Retirement and Disability Fund any additional contributions for which it would have been liable, with respect to such service, if such individual's election under this section had then been in effect (and, to the extent of any prior FAA police officer service, as if it had then been the employing agency). Any amount under this subsection shall be computed with interest, in accordance with section 8334(e) of title 5, United States Code.

''(e) CERTIFICATIONS.—The Office of Personnel Management shall accept, for the purpose of this section, the certification of—

''(1) the Metropolitan Washington Airports Authority (or its designee) concerning any service performed by an individual as an MWAA police officer; and

''(2) the Federal Aviation Administration (or its designee) concerning any service performed by an individual as an FAA police officer.

''(f) REIMBURSEMENT TO COMPENSATE FOR UNFUNDED LIABILITY.—

''(1) IN GENERAL.—The Metropolitan Washington Airports Authority shall pay into the Civil Service Retirement and Disability Fund an amount (as determined by the Director of the Office of Personnel Management) equal to the amount necessary to reimburse the Fund for any estimated increase in the unfunded liability of the Fund (to the extent the Civil Service Retirement System is involved), and for any estimated increase in the supplemental liability of the Fund (to the extent the Federal Employees' Retirement System is involved), resulting from the enactment of this section.

''(2) PAYMENT METHOD.—The Metropolitan Washington Airports Authority shall pay the amount so determined in five equal annual installments, with interest (which shall be computed at the rate used in the most recent valuation of the Federal Employees' Retirement System).''

§ 49108. Limitations

After October 1, 2008, the Secretary of Transportation may not approve an application of the Metropolitan Washington Airports Authority—

(1) for an airport development project grant under subchapter I of chapter 471 of this title; or

(2) to impose a passenger facility fee under section 40117 of this title.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2213; amended Pub. L. 106–181, title II,

§ 231(h), Apr. 5, 2000, 114 Stat. 115; Pub. L. 108–176, title VIII, § 804, Dec. 12, 2003, 117 Stat. 2587.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49108	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(i), as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 905, 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(i), as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 905, 110 Stat. 3276.

AMENDMENTS

2003—Pub. L. 108–176 substituted ''2008'' for ''2004'' in introductory provisions.

2000—Pub. L. 106–181 substituted ''2004'' for ''2001'' in introductory provisions.

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 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 49109. Nonstop flights

An air carrier may not operate an aircraft nonstop in air transportation between Ronald Reagan Washington National Airport and another airport that is more than 1,250 statute miles away from Ronald Reagan Washington National Airport.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2213; amended Pub. L. 105–154, § 2(a)(1)(D), Feb. 6, 1998, 112 Stat. 3.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49109	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6012, 100 Stat. 1783–385. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6012, 100 Stat. 3341–388.

AMENDMENTS

1998—Pub. L. 105–154 substituted ''Ronald Reagan Washington National Airport'' for ''Washington National Airport'' in two places.

§ 49110. Use of Dulles Airport Access Highway

The Metropolitan Washington Airports Authority shall continue in effect and enforce section 4.2(1) and (2) of the Metropolitan Washington Airports Regulations, as in effect on February 1, 1995. The district courts of the United States have jurisdiction to compel the Airports Authority and its officers and employees to comply with this section. The Attorney General or an aggrieved party may bring an action on behalf of the United States Government.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2213.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49110	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6013, as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 906, 110 Stat. 3277. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6013, as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 906, 110 Stat. 3277.

The words ''Except as provided by subsection (b)'' and ''the requirements of'' are omitted as unnecessary.

§ 49111. Relationship to and effect of other laws

(a) SAME POWERS AND RESTRICTIONS UNDER OTHER LAWS.—To ensure that the Metropolitan Washington Airports Authority has the same proprietary powers and is subject to the same restrictions under United States law as any other airport except as otherwise provided in this chapter, during the period that the lease authorized by section 6005 of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500; 100 Stat. 1783–375; Public Law 99–591; 100 Stat. 3341–378) is in effect—

(1) the Metropolitan Washington Airports are deemed to be public airports for purposes of chapter 471 of this title; and

(2) the Act of June 29, 1940 (ch. 444, 54 Stat. 686), the First Supplemental Civil Functions Appropriations Act, 1941 (ch. 780, 54 Stat. 1030), and the Act of September 7, 1950 (ch. 905, 64 Stat. 770), do not apply to the operation of the Metropolitan Washington Airports, and the Secretary of Transportation is relieved of all responsibility under those Acts.

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority are not subject to the requirements of any law solely by reason of the retention by the United States Government of the fee simple title to those airports.

(c) POLICE POWER.—Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of Virginia may exercise jurisdiction over Ronald Reagan Washington National Airport.

(d) PLANNING.—(1) The authority of the National Capital Planning Commission under section 8722 of title 40 does not apply to the Airports Authority.

(2) The Airports Authority shall consult with—

(A) the Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport; and

(B) the Commission before undertaking development that would alter the skyline of Ronald Reagan Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2213; amended Pub. L. 105–154, § 2(a)(1)(D), Feb. 6, 1998, 112 Stat. 3; Pub. L. 105–225, § 7(c)(1)(D), Aug. 12, 1998, 112 Stat. 1511; Pub. L. 106–181, title II, § 231(j)(1), Apr. 5, 2000, 114 Stat.

115; Pub. L. 107–217, § 3(n)(9), Aug. 21, 2002, 116 Stat. 1303.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49111(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6009(a), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6009(a), 100 Stat. 3341–387.
49111(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6009(b), 100 Stat. 1783–384; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(c)(1), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6009(b), 100 Stat. 3341–387; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(c)(1), 110 Stat. 3276.
49111(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6009(c), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6009(c), 100 Stat. 3341–387.
49111(d)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6009(d), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6009(d), 100 Stat. 3341–387.
49111(e)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6009(e), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6009(e), 100 Stat. 3341–388.

In subsection (a)(1), the word ''deemed'' is substituted for ''considered'' for consistency in the revised title and with other titles of the United States Code.

In subsection (e), the text of section 6009(e)(2) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–385, Public Law 99–591, 100 Stat. 3341–388) is omitted as executed.

REFERENCES IN TEXT

Section 6005 of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (a), is section 6005 of Pub. L. 99–500, title VI, Oct. 18, 1986, 100 Stat. 1783–375, and Pub. L. 99–591, title VI, Oct. 30, 1986, 100 Stat. 3341–378, which was classified to section 2454 of former Title 49, Transportation, and was repealed and reenacted as this section by Pub. L. 105–102, §§ 2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217.

Act of June 29, 1940, ch. 444, 54 Stat. 686, referred to in subsec. (a)(2), was classified to subchapter I (§ 2401 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

The First Supplemental Civil Functions Appropriations Act, 1941, referred to in subsec. (a)(2), is act Oct. 9, 1940, ch. 780, 54 Stat. 1030. For complete classification of this Act to the Code, see Tables.

Act of September 7, 1950, ch. 905, 64 Stat. 770, referred to in subsec. (a)(2), was classified to subchapter II (§ 2421 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

AMENDMENTS

2002—Subsec. (d)(1). Pub. L. 107–217 substituted ''section 8722 of title 40'' for ''section 5 of the Act of June 6, 1924 (40 U.S.C. 71d),''.

2000—Subsec. (e). Pub. L. 106–181 struck out heading and text of subsec. (e). Text read as follows: ''The Administrator of the Federal Aviation Administration may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 CFR 93.121 et seq.) at Ronald Reagan Washington National Airport on October 18, 1986, and may not decrease the number of those takeoffs and landings except for reasons of safety.''

1998—Subsec. (b). Pub. L. 105–225 substituted ''retention by'' for ''retention of''.

Subsecs. (c), (d)(2)(B), (e). Pub. L. 105–154 substituted ''Ronald Reagan Washington National Airport'' for ''Washington National Airport''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–225 effective Nov. 20, 1997, see section 7(c)(3) of Pub. L. 105–225, set out as a note under section 49106 of this title.

§ 49112. Separability and effect of judicial order

(a) SEPARABILITY.—If any provision of this chapter, or the application of a provision of this chapter to a person or circumstance, is held invalid, the remainder of this chapter and the application of the provision to other persons or circumstances is not affected.

(b) EFFECT OF JUDICIAL ORDER.—(1) If any provision of the Metropolitan Washington Airports Amendments Act of 1996 (title IX of Public Law 104–264; 110 Stat. 3274) or the amendments made by the Act, or the application of that provision to a person, circumstance, or venue, is held invalid by a judicial order, the Secretary of Transportation and the Metropolitan Washington Airports Authority shall be subject to section 49108 of this title from the day after the day the order is issued.

(2) Any action of the Airports Authority that was required to be submitted to the Board of Review under section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500; 100 Stat. 1783–380; Public Law 99–599; 100 Stat. 3341–383) before October 9, 1996, remains in effect and may not be set aside only because of a judicial order invalidating certain functions of the Board.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2214.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49112(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6011, 100 Stat. 1783–385; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(c)(2), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6011, 100 Stat. 3341–388; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(c)(2), 110 Stat. 3276.
49112(b)(1) ..	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6014, as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 907, 110 Stat. 3277. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6014, as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 907, 110 Stat. 3277.
49112(b)(2) ..	(uncodified).	Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(d), 110 Stat. 3276.

In subsection (a), the word ''thereby'' is omitted as surplus.

In subsection (b)(1), the words ''the limitations described in'' are omitted as unnecessary.

REFERENCES IN TEXT

The Metropolitan Washington Airports Amendments Act of 1996, referred to in subsec. (b)(1), is title IX of Pub. L. 104–264, Oct. 9, 1996, 110 Stat. 3274, which amended the Metropolitan Washington Airports Act of 1986, title VI of Pub. L. 99–500, Oct. 18, 1986, 100 Stat. 1783–373, and title VI of Pub. L. 99–591, Oct. 30, 1986, 100 Stat. 3341–376, as amended. The Metropolitan Washington Airports Act of 1986 was classified generally to subchapter III (§ 2451 et seq.) of chapter 33 of former Title 49, Transportation, and was repealed and reenacted as this chapter by Pub. L. 105–102, §§ 2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217.

Section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (b)(2), is section 6007(f)(4) of Pub. L. 99–500, title VI, Oct. 18, 1986, 100 Stat. 1783–379, and Pub. L. 99–591, title VI, Oct. 30, 1986, 100 Stat. 3341–382, which related to a Board of Review and was classified to section 2456(f)(4) of former Title 49, Transportation. Subsec. (f) of section 6007 was repealed and subsec. (g) redesignated (f) by Pub. L. 104–264, title IX, § 904(a), Oct. 9, 1996, 110 Stat. 3276. Section 6007 was subsequently repealed and reenacted as section 49106 of Title 49, Transportation, by Pub. L. 105–102, §§ 2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217, and does not contain provisions relating to a Board of Review.

PART E—MISCELLANEOUS

AMENDMENTS

1996—Pub. L. 104–287, § 5(88)(A), Oct. 11, 1996, 110 Stat. 3398, redesignated part D of this subtitle as this part.

CHAPTER 501—BUY-AMERICAN PREFERENCES

Sec.
50101. Buying goods produced in the United States.
50102. Restricting contract awards because of discrimination against United States goods or services.
50103. Contract preference for domestic firms.
50104. Restriction on airport projects using products or services of foreign countries denying fair market opportunities.
50105. Fraudulent use of ''Made in America'' label.

AMENDMENTS

1996—Pub. L. 104–287, § 5(88)(B), (C), Oct. 11, 1996, 110 Stat. 3398, redesignated chapter 491 of this title as this chapter and items 49101 to 49105 as 50101 to 50105, respectively.

§ 50101. Buying goods produced in the United States

(a) PREFERENCE.—The Secretary of Transportation may obligate an amount that may be appropriated to carry out section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title for a project only if steel and manufactured goods used in the project are produced in the United States.

(b) WAIVER.—The Secretary may waive subsection (a) of this section if the Secretary finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) the steel and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(3) when procuring a facility or equipment under section 44502(a)(2) or 44509, subchapter I of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title—

(A) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the facility or equipment; and

(B) final assembly of the facility or equipment has occurred in the United States; or

(4) including domestic material will increase the cost of the overall project by more than 25 percent.

(c) LABOR COSTS.—In this section, labor costs involved in final assembly are not included in calculating the cost of components.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1298, § 49101; renumbered § 50101 and amended Pub. L. 104–287, § 5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49101(a)	49 App.:2226a(a).	Nov. 5, 1990, Pub. L. 101–508, § 9129, 104 Stat. 1388–371.
49101(b)	49 App.:2226a(b).	
49101(c)	49 App.:2226a(c).	

In this chapter, the word ''goods'' is substituted for ''product'' and ''products'' for consistency.

In subsection (a), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''after November 5, 1990'' are omitted as obsolete.

In subsection (b), before clause (1), the words ''The Secretary may waive'' are substituted for ''shall not apply'' for consistency. In clause (2), the words ''steel and goods'' are substituted for ''materials and products'' for consistency. In clause (4), the word ''contract'' is omitted as surplus.

PUB. L. 104–287, § 5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

AMENDMENTS

1996—Pub. L. 104–287, § 5(88)(D), renumbered section 49101 of this title as this section.

Subsecs. (a), (b)(3). Pub. L. 104–287, § 5(89), substituted ''section 47127'' for ''sections 47106(d) and 47127''.

USE OF DOMESTIC PRODUCTS

Pub. L. 103–305, title III, § 305, Aug. 23, 1994, 108 Stat. 1592, provided that:

''(a) PROHIBITION AGAINST FRAUDULENT USE OF 'MADE IN AMERICA' LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of 'Made in America', or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

''(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 40101 of this title], including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

''(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each office within the Federal Aviation Administration that conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c [41 U.S.C. 10a—10b–1], popularly known as the 'Buy American Act').

''(2) This subsection shall apply only to procurements made for which—

''(A) amounts are authorized by this title to be made available; and

''(B) solicitations for bids are issued after the date of the enactment of this Act [Aug. 23, 1994].

''(3) The Secretary, before January 1, 1995, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

''(c) DEFINITIONS.—For the purposes of this section, the term 'domestic product' means a product—

''(1) that is manufactured or produced in the United States; and

''(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.''

Similar provisions were contained in the following prior authorization act: Pub. L. 102–581, title III, § 305, Oct. 31, 1992, 106 Stat. 4896.

PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS

Pub. L. 103–305, title III, § 306, Aug. 23, 1994, 108 Stat. 1593, provided that:

''(a) SENSE OF CONGRESS.—It is the sense of Congress that any recipient of a grant under this title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 40101 of this title], or under any amendment made by this title, should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

''(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In allocating grants under this title, or under any amendment made by this title, the Secretary shall provide to each recipient a notice describing the statement made in subsection (a) by the Congress.''

§ 50102. Restricting contract awards because of discrimination against United States goods or services

A person or enterprise domiciled or operating under the laws of a foreign country may not make a contract or subcontract under section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title or subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–353) if the government of that country unfairly maintains, in government procurement, a significant and persistent pattern of discrimination against United States goods or services that results in identifiable harm to United States businesses, that the President identifies under section 305(g)(1)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1298, § 49102; renumbered § 50102 and amended Pub. L. 104–287, § 5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49102	49 App.:2226c.	Nov. 5, 1990, Pub. L. 101–508, § 9131, 104 Stat. 1388–372; Oct. 31, 1992, Pub. L. 102–581, § 118(b), 106 Stat. 4883.

The words ''government of that country'' are substituted for ''that government'' for consistency in the revised title and with other titles of the United States Code.

PUB. L. 104–287, § 5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

REFERENCES IN TEXT

Subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990, referred to in text, is subtitle B (§§ 9101–9131) of title IX of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–353, as amended, known as the Aviation Safety and Capacity Expansion Act of 1990. Sections 9102 to 9105, 9107 to 9112(b), 9113 to 9115, 9118, 9121 to 9123, 9124 ''Sec. 613(c)'', 9125, 9127, and 9129 to 9131 of title IX of Pub. L. 101–508 were repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

AMENDMENTS

1996—Pub. L. 104–287, § 5(89), substituted ''section 47127'' for ''sections 47106(d) and 47127''.

Pub. L. 104–287, § 5(88)(D), renumbered section 49102 of this title as this section.

§ 50103. Contract preference for domestic firms

(a) DEFINITIONS.—In this section—

(1) ''domestic firm'' means a business entity incorporated, and conducting business, in the United States.

(2) ''foreign firm'' means a business entity not described in clause (1) of this subsection.

(b) PREFERENCE.—Subject to subsections (c) and (d) of this section, the Administrator of the Federal Aviation Administration may make, with a domestic firm, a contract related to a grant made under section 44511, 44512, or 44513 of this title that, under competitive procedures, would be made with a foreign firm, if—

(1) the Administrator decides, and the Secretary of Commerce and the United States Trade Representative concur, that the public interest requires making the contract with the domestic firm, considering United States international obligations and trade relations;

(2) the difference between the bids submitted by the foreign firm and the domestic firm is not more than 6 percent;

(3) the final product of the domestic firm will be assembled completely in the United States; and

(4) at least 51 percent of the final product of the domestic firm will be produced in the United States.

(c) NONAPPLICATION.—Subsection (b) of this section does not apply if—

(1) compelling national security considerations require that subsection (b) of this section not apply; or

(2) the Trade Representative decides that making the contract would violate the multilateral trade agreements (as defined in section 3501(4) of title 19) or an international agreement to which the United States is a party.

(d) APPLICATION TO CERTAIN GRANTS.—This section applies only to a contract related to a grant made under section 44511, 44512, or 44513 of this title for which—

(1) an amount is authorized by section 48102(a), (b), or (d) of this title to be made available for the fiscal years ending September 30, 1991, and September 30, 1992; and

(2) a solicitation for bid is issued after November 5, 1990.

(e) REPORT.—The Administrator shall submit a report to Congress on—

(1) contracts to which this section applies that are made with foreign firms in the fiscal years ending September 30, 1991, and September 30, 1992;

(2) the number of contracts that meet the requirements of subsection (b) of this section, but that the Trade Representative decides would violate the multilateral trade agreements (as defined in section 3501(4) of title 19) or an international agreement to which the United States is a party; and

(3) the number of contracts made under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1298, § 49103; renumbered § 50103, Pub. L. 104–287, § 5(88)(D), Oct. 11, 1996, 110 Stat. 3398; amended Pub. L. 106–36, title I, § 1002(i), June 25, 1999, 113 Stat. 134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49103(a)	49 App.:2226d(e).	Nov. 5, 1990, Pub. L. 101–508, § 9207, 104 Stat. 1388–375.
49103(b)	49 App.:2226d(a).	
49103(c)	49 App.:2226d(b).	
49103(d)	49 App.:2226d(c).	
49103(e)	49 App.:2226d(d).	

In subsection (a), the text of 49 App.:2226d(e)(1) is omitted because the complete name of the Administrator of the Federal Aviation Administration is used the first time the term appears in a section.

In subsection (b), before clause (1), the words ''Subject to subsections (c) and (d) of this section'' are added to alert the reader to the limitations in those subsections. In clause (1), the words ''requires making the contract with the domestic firm'' are substituted for ''so requires'' for clarity. The words ''considering United States international obligations and trade relations'' are substituted for ''In determining under this subsection whether the public interest so requires, the Administrator shall take into account United States international obligations and trade relations'' to eliminate unnecessary words. In clause (4), the words ''when completely assembled'' are omitted as surplus. The words ''produced in the United States'' are substituted for ''domestically produced'' for consistency with clause (3).

In subsection (c), the words ''(1) such applicability would not be in the public interest'' are omitted as redundant to subsection (b)(1) of the revised section.

In subsection (e)(1), the words ''foreign firms'' are substituted for ''foreign entities'' for consistency in the revised section.

Subsection (e)(3) is substituted for ''the number of contracts covered under this subtitle (including the amendments made by this subtitle) and awarded based upon the parameters of this section'' to eliminate unnecessary words.

AMENDMENTS

1999—Subsecs. (c)(2), (e)(2). Pub. L. 106–36 substituted ''multilateral trade agreements (as defined in section 3501(4) of title 19)'' for ''General Agreement on Tariffs and Trade''.

1996—Pub. L. 104–287 renumbered section 49103 of this title as this section.

§ 50104. Restriction on airport projects using products or services of foreign countries denying fair market opportunities

(a) DEFINITION AND RULES FOR CONSTRUING SECTION.—In this section—

(1) ''project'' has the same meaning given that term in section 47102 of this title.

(2) each foreign instrumentality and each territory and possession of a foreign country administered separately for customs purposes is a separate foreign country.

(3) an article substantially produced or manufactured in a foreign country is a product of the country.

(4) a service provided by a person that is a national of a foreign country or that is controlled by a national of a foreign country is a service of the country.

(b) LIMITATION ON USE OF AVAILABLE AMOUNTS.—(1) An amount made available under subchapter I of chapter 471 of this title (except section 47127) may not be used for a project that uses a product or service of a foreign country during any period the country is on the list maintained by the United States Trade Representative under subsection (d)(1) of this section.

(2) Paragraph (1) of this subsection does not apply when the Secretary of Transportation decides that—

(A) applying paragraph (1) to the product, service, or project is not in the public interest;

(B) a product or service of the same class or type and of satisfactory quality is not produced or offered in the United States, or in a foreign country not listed under subsection (d)(1) of this section, in a sufficient and reasonably available amount; and

(C) the project cost will increase by more than 20 percent if the product or service is excluded.

(c) DECISIONS ON DENIAL OF FAIR MARKET OPPORTUNITIES.—Not later than 30 days after a report is submitted to Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the Trade Representative, for a construction project of more than $500,000 for which the government of a foreign country supplies any part of the amount, shall decide whether the foreign country denies fair market opportunities for products and suppliers of the United States in procurement or for United States bidders. In making the decision, the Trade Representative shall consider information obtained in preparing the report and other information the Trade Representative considers relevant.

(d) LIST OF COUNTRIES DENYING FAIR MARKET OPPORTUNITIES.—(1) The Trade Representative

shall maintain a list of each foreign country the Trade Representative finds under subsection (c) of this section is denying fair market opportunities. The country shall remain on the list until the Trade Representative decides the country provides fair market opportunities.

(2) The Trade Representative shall publish in the Federal Register—

(A) annually the list required under paragraph (1) of this subsection; and

(B) any modification of the list made before the next list is published.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1299, § 49104; renumbered § 50104 and amended Pub. L. 104–287, § 5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49104(a)(1) ..	(no source).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 533; added Dec. 30, 1987, Pub. L. 100–223, § 115, 101 Stat. 1505.
49104(a)(2)–(4).	49 App.:2226(d).	
49104(b)	49 App.:2226(a).	
49104(c)	49 App.:2226(b).	
49104(d)	49 App.:2226(c).	

Subsection (a)(1) is added for clarity.

In subsection (b)(1), the words ''subchapter I of chapter 471 of this title (except sections 47106(d) and 47127)'' are substituted for ''Act'' in section 533(a)(1) of the Airport and Airway Development Act of 1982, as added by section 115 of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1505) to correct a mistake.

In subsection (b)(2), before clause (A), the words ''with respect to the use of a product or service in a project'' are omitted as surplus. In clause (B), the words ''or service'' are added for clarity and consistency in this section. In clause (C), the words ''overall'' and ''contract'' are omitted as surplus.

In subsection (c), the words ''the date which is'', ''the date on which'', ''or not'', and ''and equitable'' are omitted as surplus.

In subsection (d)(1), the words ''finds under subsection (c) of this section is denying fair market opportunities'' are substituted for ''with respect to which an affirmative determination is made under subsection (b)'' for clarity.

In subsection (d)(2)(A), the word ''entire'' is omitted as surplus.

PUB. L. 104–287, § 5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

AMENDMENTS

1996—Pub. L. 104–287, § 5(88)(D), renumbered section 49104 of this title as this section.

Subsec. (b)(1). Pub. L. 104–287, § 5(89), substituted ''section 47127'' for ''sections 47106(d) and 47127''.

§ 50105. Fraudulent use of "Made in America" label

If the Secretary of Transportation decides that a person intentionally affixed a ''Made in America'' label to goods sold in or shipped to the United States that are not made in the United States, the Secretary shall declare the person ineligible, for not less than 3 nor more than 5 years, to receive a contract or grant from the United States Government related to a contract made under section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title or subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–353). The Secretary may bring a civil action to enforce this section in any district court of the United States.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1300, § 49105; renumbered § 50105 and amended Pub. L. 104–287, § 5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49105	49 App.:2226b.	Nov. 5, 1990, Pub. L. 101–508, § 9130, 104 Stat. 1388–372; Oct. 31, 1992, Pub. L. 102–581, § 118(a), 106 Stat. 4883.

PUB. L. 104–287, § 5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

REFERENCES IN TEXT

Subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990, referred to in text, is subtitle B (§§ 9101–9131) of title IX of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–353, as amended, known as the Aviation Safety and Capacity Expansion Act of 1990. Sections 9102 to 9105, 9107 to 9112(b), 9113 to 9115, 9118, 9121 to 9123, 9124 ''Sec. 613(c)'', 9125, 9127, and 9129 to 9131 of title IX of Pub. L. 101–508 were repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, Transportation, see table at the beginning of Title 49.

AMENDMENTS

1996—Pub. L. 104–287, § 5(89), substituted ''section 47127'' for ''sections 47106(d) and 47127''.

Pub. L. 104–287, § 5(88)(D), renumbered section 49105 of this title as this section.

SUBTITLE VIII—PIPELINES

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601.	**Safety**	**60101**
603.	**User Fees**	**60301**
605.	**Interstate Commerce Regulation**	**60501**

CHAPTER 601—SAFETY

Sec.
60101. Definitions.
60102. Purpose and general authority.
60103. Standards for liquefied natural gas pipeline facilities.
60104. Requirements and limitations.
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60108. Inspection and maintenance.