an accident, or property on the aircraft at the time of the accident, shall be fined under title 18, imprisoned for not more than 10 years, or both.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 758; Pub. L. 104–264, title VII, § 702(b), Oct. 9, 1996, 110 Stat. 3267.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1155(a)(1), (2). | 49 App.:1471(a)(1) (related to subchapter VII). | Aug. 23, 1958, Pub. L. 85–726, § 901(a)(1) (related to 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. |
| | 49 App.:1655(d) (1st sentence). | Oct. 15, 1966, Pub. L. 89–670, § 6(d) (1st sentence), 80 Stat. 938. |
| | 49 App.:1903(a)(1)(A). | Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1)(A), 88 Stat. 2168. |
| 1155(a)(3), (4). | 49 App.:1471(a)(2) (related to subchapter VII). | Aug. 23, 1958, Pub. L. 85–726, § 901(a)(2) (related to title VII), 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. |
| | 49 App.:1655(d) (1st sentence). | |
| | 49 App.:1903(a)(1)(A). | |
| 1155(a)(5) .... | 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.:1655(d) (1st sentence). | |
| | 49 App.:1903(a)(1)(A). | |
| 1155(b) ..... | 49 App.:1472(p). | Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(p); added Oct. 15, 1962, Pub. L. 87–810, § 4, 76 Stat. 921; Aug. 5, 1974, Pub. L. 93–366, § 103(b), 88 Stat. 410; Dec. 30, 1987, Pub. L. 100–223, § 204(e), 101 Stat. 1520. |

In subsection (a)(1), the words ''section 1132 or 1134(b) or (f)(1) (related to an aircraft accident) of this title'' are substituted for ''any provision of subchapter . . . VII . . . of this chapter'' in 49 App.:1471(a)(1) because those sections restate the relevant source provisions of 49 App.:ch. 20 carried out by the Board. The words ''regulation prescribed or order issued under either of those sections'' are substituted for ''rule, regulation, or order issued thereunder'' for clarity and consistency in the revised title and with other titles of the United States Code and because ''rule'' and ''regulation'' are synonymous. The words ''liable to the United States Government'' are substituted for ''subject to'' for clarity. The words ''for each such violation'' are omitted as unnecessary because of 18:1.

In subsection (a)(2), the word ''civilian'' is omitted as unnecessary. The words ''with respect thereto'' are omitted as surplus.

In subsection (a)(4), the words ''imposed or compromised'' are substituted for ''finally determined or fixed by order of the Board, or the amount agreed upon in compromise'' in 49 App.:1471(a)(2) for consistency and to eliminate unnecessary words.

In subsection (a)(5), the words ''imposed or assessed'' are omitted as surplus. The words ''civil action against the person'' are substituted for ''proceedings in personam against the person'' in 49 App.:1473(b)(1) for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.) and to eliminate unnecessary words. The text of 49 App.:1473(b)(1) (1st sentence words after 1st comma and last sentence) is omitted as unnecessary because penalties imposed by the National Transportation Safety Board do not involve liens on aircraft. The text of 49 App.:1473(b)(4) is omitted as unnecessary because of 28:ch. 131.

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (a)(2), is classified generally to chapter 47 (§ 801 et seq.) of Title 10, Armed Forces.

PRIOR PROVISIONS

Prior chapter 31 (§§ 3101–3104) of subtitle II redesignated and restated as chapter 315 (§§ 31501–31504) of subtitle VI of this title by Pub. L. 103–272, § 1(c), (e).

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–264 substituted '', section 1134(b), section 1134(f)(1), or section 1136(g)'' for ''or 1134(b) or (f)(1)'' and ''any of'' for ''either of''.

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.

# SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS


| Chapter | | Sec. |
|---|---|---|
| **51.** | **Transportation of Hazardous Material** | **5101** |
| **53.** | **Public Transportation** | **5301** |
| **55.** | **Intermodal Transportation** | **5501** |
| **57.** | **Sanitary Food Transportation** | **5701** |
| **59.** | **Intermodal Safe Container Transportation** | **5901** |
| **61.** | **One-Call Notification Programs** | **6101** |


AMENDMENTS

2005—Pub. L. 109–59, title III, § 3002(c), Aug. 10, 2005, 119 Stat. 1545, substituted ''Public'' for ''Mass'' in item for chapter 53.

1998—Pub. L. 105–178, title VII, § 7302(b), June 9, 1998, 112 Stat. 482, added item for chapter 61.

## CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL


Sec.
5101. Purpose.
5102. Definitions.
5103. General regulatory authority.
5103a. Limitation on issuance of hazmat licenses.
5104. Representation and tampering.
5105. Transporting certain highly radioactive material.
5106. Handling criteria.
5107. Hazmat employee training requirements and grants.
5108. Registration.
5109. Motor carrier safety permits.
5110. Shipping papers and disclosure.
[5111. Repealed.]
5112. Highway routing of hazardous material.
5113. Unsatisfactory safety rating.
5114. Air transportation of ionizing radiation material.
5115. Training curriculum for the public sector.
5116. Planning and training grants, monitoring, and review.
5117. Special permits and exclusions.
[5118. Repealed.]
5119. Uniform forms and procedures.
5120. International uniformity of standards and requirements.
5121. Administrative.

Sec.
5122. Enforcement.
5123. Civil penalty.
5124. Criminal penalty.
5125. Preemption.
5126. Relationship to other laws.
5127. Judicial review.
5128. Authorization of appropriations.

AMENDMENTS

2005—Pub. L. 109–59, title VII, §§7111, 7115(a)(2), (h), 7123(c), Aug. 10, 2005, 119 Stat. 1899, 1901, 1908, struck out item 5111 ''Rail tank cars'', substituted ''Special permits and exclusions'' for ''Exemptions and exclusions'' in item 5117, struck out item 5118 ''Inspectors'', added items 5127 and 5128, and struck out former item 5127 ''Authorization of appropriations''.

2001—Pub. L. 107–56, title X, §1012(a)(2), Oct. 26, 2001, 115 Stat. 397, added item 5103a.

## § 5101. Purpose

The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 759; Pub. L. 109–59, title VII, §7101(b), Aug. 10, 2005, 119 Stat. 1891.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5101 ..... | 49 App.:1801. | Jan. 3, 1975, Pub. L. 93–633, §102, 88 Stat. 2156. |

The words ''It is declared to be the policy of Congress'', ''the Nation'', and ''which are'' are omitted as surplus.

AMENDMENTS

2005—Pub. L. 109–59 substituted ''The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce'' for ''The purpose of this chapter is to provide adequate protection against the risks to life and property inherent in the transportation of hazardous material in commerce by improving the regulatory and enforcement authority of the Secretary of Transportation''.

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–59, title III, §3001, Aug. 10, 2005, 119 Stat. 1544, provided that: ''This title [see Tables for classification] may be cited as the 'Federal Public Transportation Act of 2005'.''

Pub. L. 109–59, title VII, §7001, Aug. 10, 2005, 119 Stat. 1891, provided that: ''This title [see Tables for classification] may be cited as the 'Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–178, title III, §3001, June 9, 1998, 112 Stat. 338, provided that: ''This title [amending sections 5302 to 5305, 5307 to 5315, 5317 to 5320, 5323, 5325 to 5328, and 5333 to 5338 of this title and enacting provisions set out as notes under sections 301, 5301, 5307 to 5310, 5323, 5336, and 5338 of this title and sections 138 and 322 of Title 23, Highways] may be cited as the 'Federal Transit Act of 1998'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–291, title II, §201, Oct. 11, 1996, 110 Stat. 3453, provided that: ''This title [enacting section 5908 of this title and amending sections 5901 to 5903 and 5905 to 5907 of this title] may be cited as the 'Intermodal Safe Container Transportation Amendments Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–311, title I, §101, Aug. 26, 1994, 108 Stat. 1673, provided that: ''This title [amending sections 5102 to 5104, 5107, 5108, 5110, 5116, 5117, 5121, and 5125 to 5127 of this title and enacting provisions set out as notes under this section, sections 5103, 5112, and 5121 of this title, and section 307 of Title 23, Highways] may be cited as the 'Hazardous Materials Transportation Authorization Act of 1994'.''

TRANSFER OF FUNCTIONS

For transfer of duties, powers, and authority of Research and Special Programs Administration under this chapter to the Administrator of the Pipeline and Hazardous Materials Safety Administration, see section 2(b) of Pub. L. 108–426, set out as a note under section 108 of this title.

FINDINGS

Pub. L. 109–59, title VII, §7101(a), Aug. 10, 2005, 119 Stat. 1891, provided that: ''Congress finds with respect to hazardous materials transportation that—

''(1) approximately 4,000,000,000 tons of regulated hazardous materials are transported each year and approximately 1,200,000 movements of hazardous materials occur each day, according to Department of Transportation estimates;

''(2) the movement of hazardous materials in commerce is necessary to maintain economic vitality and meet consumer demands and must be conducted in a safe, secure, and efficient manner;

''(3) accidents involving, or unauthorized access to, hazardous materials in transportation may result in a release of such materials and pose a serious threat to public health and safety;

''(4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable; and

''(5) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of well-trained State and local emergency response personnel and hazmat employees is essential.''

BUY AMERICAN

Pub. L. 103–311, title I, §123, Aug. 26, 1994, 108 Stat. 1682, provided that:

''(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available under this title [see Short Title of 1994 Amendment note above] may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 ([former] 41 U.S.C. 10a–10c; popularly known as the 'Buy American Act' [see 41 U.S.C. 8301 et seq.]), which are applicable to those funds.

''(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

''(1) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this title, it is the sense of Congress that entities receiving such assistance should, in expending such assistance, purchase only American-made equipment and products.

''(2) In providing financial assistance under this title, the Secretary of Transportation shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

''(c) PROHIBITION OF CONTRACTS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract

or subcontract made with funds provided pursuant to this title, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

''(d) RECIPROCITY.—

''(1) Except as provided in paragraph (2), no contract or subcontract may be made with funds authorized under this title to a company organized under the laws of a foreign country unless the Secretary of Transportation finds that such country affords comparable opportunities to companies organized under laws of the United States.

''(2)(A) The Secretary of Transportation may waive the provisions of paragraph (1) if the products or services required are not reasonably available from companies organized under the laws of the United States. Any such waiver shall be reported to Congress.

''(B) Paragraph (1) shall not apply to the extent that to do so would violate the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.''

## § 5102. Definitions

In this chapter—

(1) ''commerce'' means trade or transportation in the jurisdiction of the United States—

(A) between a place in a State and a place outside of the State;

(B) that affects trade or transportation between a place in a State and a place outside of the State; or

(C) on a United States-registered aircraft.

(2) ''hazardous material'' means a substance or material the Secretary designates under section 5103(a) of this title.

(3) ''hazmat employee''—

(A) means an individual—

(i) who—

(I) is employed on a full time, part time, or temporary basis by a hazmat employer; or

(II) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce; and

(ii) who during the course of such full time, part time, or temporary employment, or such self employment, directly affects hazardous material transportation safety as the Secretary decides by regulation; and

(B) includes an individual, employed on a full time, part time, or temporary basis by a hazmat employer, or self employed, who during the course of employment—

(i) loads, unloads, or handles hazardous material;

(ii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;

(iii) prepares hazardous material for transportation;

(iv) is responsible for the safety of transporting hazardous material; or

(v) operates a vehicle used to transport hazardous material.

(4) ''hazmat employer''—

(A) means a person—

(i) who—

(I) employs or uses at least 1 hazmat employee on a full time, part time, or temporary basis; or

(II) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce; and

(ii) who—

(I) transports hazardous material in commerce;

(II) causes hazardous material to be transported in commerce; or

(III) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce; and

(B) includes a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out an activity described in clause (ii).

(5) ''imminent hazard'' means the existence of a condition relating to hazardous material that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

(6) ''Indian tribe'' has the same meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(7) ''motor carrier''—

(A) means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102; but

(B) does not include a freight forwarder, as so defined, if the freight forwarder is not performing a function relating to highway transportation.

(8) ''National Response Team'' means the National Response Team established under the National Contingency Plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605).

(9) ''person'', in addition to its meaning under section 1 of title 1—

(A) includes a government, Indian tribe, or authority of a government or tribe that—

(i) offers hazardous material for transportation in commerce;

(ii) transports hazardous material to further a commercial enterprise; or

(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce; but

(B) does not include—

(i) the United States Postal Service; and

(ii) in sections 5123 and 5124 of this title, a department, agency, or instrumentality of the Government.

(10) ''public sector employee''—

(A) means an individual employed by a State, political subdivision of a State, or Indian tribe and who during the course of employment has responsibilities related to responding to an accident or incident involving the transportation of hazardous material;

(B) includes an individual employed by a State, political subdivision of a State, or Indian tribe as a firefighter or law enforcement officer; and

(C) includes an individual who volunteers to serve as a firefighter for a State, political subdivision of a State, or Indian tribe.

(11) ''Secretary'' means the Secretary of Transportation except as otherwise provided.

(12) ''State'' means—

(A) except in section 5119 of this title, a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and any other territory or possession of the United States designated by the Secretary; and

(B) in section 5119 of this title, a State of the United States and the District of Columbia.

(13) ''transports'' or ''transportation'' means the movement of property and loading, unloading, or storage incidental to the movement.

(14) ''United States'' means all of the States.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 759; Pub. L. 103–311, title I, § 117(a)(1), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 104–88, title III, § 308(d), Dec. 29, 1995, 109 Stat. 947; Pub. L. 109–59, title VII, §§ 7102, 7126, Aug. 10, 2005, 119 Stat. 1892, 1909; Pub. L. 110–244, title III, § 302(a), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5102(1) | 49 App.:1802(1)–(3), (13). | Jan. 3, 1975, Pub. L. 93–633, § 103, 88 Stat. 2156; restated Nov. 16, 1990, Pub. L. 101–615, § 3(a), 104 Stat. 3245; Oct. 24, 1992, Pub. L. 102–508, §§ 501, 502, 106 Stat. 3311. |
| 5102(2) | 49 App.:1802(4). | |
| 5102(3) | 49 App.:1802(5). | |
| 5102(4) | 49 App.:1802(6). | |
| 5102(5) | 49 App.:1802(7). | |
| 5102(6) | 49 App.:1802(8). | |
| 5102(7) | 49 App.:1802(9). | |
| 5102(8) | 49 App.:1802(10). | |
| 5102(9) | 49 App.:1802(11). | |
| 5102(10) | 49 App.:1802(12). | |
| 5102(11) | 49 App.:1802(14). | |
| 5102(12) | 49 App.:1802(15). | |
| 5102(13) | 49 App.:1802(16). | |

In this chapter, the words ''or shipped'' are omitted as being included in ''transported''.

In clause (1), before subclause (A), the text of 49 App.:1802(1), (3), and (13) is omitted because the complete names of the Administrator of the Environmental Protection Agency, Director of the Federal Emergency Management Agency, and Secretary of Transportation are used the first time the terms appear in a section. The words ''traffic, commerce'' are omitted as surplus. In subclause (B), the words ''between a place in a State and a place outside of the State'' are substituted for ''described in clause (A)'' for clarity.

In clauses (3)(C) and (10)(B), the words ''at a minimum'' are omitted as surplus.

In clause (5), the words ''administrative hearing or other'' are omitted as surplus.

In clause (9), before subclause (A), the words ''including any trustee, receiver, assignee, or similar representative thereof'' are omitted as surplus.

In clause (12), the words ''by any mode'' are omitted as surplus.

AMENDMENTS

2008—Par. (3). Pub. L. 110–244 amended Pub. L. 109–59, § 7102(2). See 2005 Amendment notes below.

2005—Par. (1)(C). Pub. L. 109–59, § 7102(1), added subpar. (C).

Par. (2). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Par. (3)(A)(i). Pub. L. 109–59, § 7102(2)(A), as amended by Pub. L. 110–244, § 302(a)(1), (2), added cl. (i) and struck out former cl. (i) which read as follows: ''employed by a hazmat employer; and''.

Par. (3)(A)(ii). Pub. L. 109–59, § 7102(2)(B), as amended by Pub. L. 110–244, § 302(a)(1), (3), substituted ''course of such full time, part time, or temporary employment, or such self employment,'' for ''course of employment'' and inserted ''and'' at end.

Par. (3)(B). Pub. L. 109–59, § 7102(2)(D)(i), as amended by Pub. L. 110–244, § 302(a)(1), substituted ''employed on a full time, part time, or temporary basis by a hazmat employer, or self employed,'' for ''employed by a hazmat employer,'' in introductory provisions.

Pub. L. 109–59, § 7102(2)(C), as amended by Pub. L. 110–244, § 302(a)(1), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''includes an owner-operator of a motor vehicle transporting hazardous material in commerce; and''.

Par. (3)(B)(ii). Pub. L. 109–59, § 7102(2)(D)(ii), as amended by Pub. L. 110–244, § 302(a)(1), added cl. (ii) and struck out former cl. (ii) which read as follows: ''manufactures, reconditions, or tests containers, drums, and packagings represented as qualified for use in transporting hazardous material;''.

Par. (3)(C). Pub. L. 109–59, § 7102(2)(C), as amended by Pub. L. 110–244, § 302(a)(1), redesignated subpar. (C) as (B).

Par. (4). Pub. L. 109–59, § 7102(3), amended par. (4) generally. Prior to amendment, par. (4) consisted of subpars. (A) to (C), which included within definition of ''hazmat employer'' a person using at least one employee in connection with transporting or containers for transporting hazardous material, an owner-operator of a motor vehicle transporting hazardous material in commerce, and a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out certain described activities.

Par. (5). Pub. L. 109–59, § 7102(4), inserted ''relating to hazardous material'' after ''of a condition''.

Par. (7). Pub. L. 109–59, § 7102(5), amended par. (7) generally. Prior to amendment, par. (7) read as follows: '' 'motor carrier' means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102 of this title.''

Par. (8). Pub. L. 109–59, § 7102(6), substituted ''National Response Team'' for ''national response team'' in two places and ''National Contingency Plan'' for ''national contingency plan''.

Par. (9)(A). Pub. L. 109–59, § 7102(7), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''includes a government, Indian tribe, or authority of a government or tribe offering hazardous material for transportation in commerce or transporting hazardous material to further a commercial enterprise; but''.

Pars. (11) to (14). Pub. L. 109–59, § 7102(8), added par. (11) and redesignated former pars. (11) to (13) as (12) to (14), respectively.

1995—Par. (7). Pub. L. 104–88 substituted ''motor carrier, motor private'' for ''motor common carrier, motor contract carrier, motor private'' and ''section 13102'' for ''section 10102''.

1994—Pars. (3)(C)(ii), (4)(A)(iii). Pub. L. 103–311 substituted ''packagings'' for ''packages''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of Title 23, Highways.

## § 5103. General regulatory authority

(a) DESIGNATING MATERIAL AS HAZARDOUS.—The Secretary shall designate material (including an explosive, radioactive material, infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material, and compressed gas) or a group or class of material as hazardous when the Secretary determines that transporting the material in commerce in a particular amount and form may pose an unreasonable risk to health and safety or property.

(b) REGULATIONS FOR SAFE TRANSPORTATION.—(1) The Secretary shall prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The regulations—

(A) apply to a person who—

(i) transports hazardous material in commerce;

(ii) causes hazardous material to be transported in commerce;

(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;

(iv) prepares or accepts hazardous material for transportation in commerce;

(v) is responsible for the safety of transporting hazardous material in commerce;

(vi) certifies compliance with any requirement under this chapter; or

(vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi); and

(B) shall govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate.

(2) A proceeding to prescribe the regulations must be conducted under section 553 of title 5, including an opportunity for informal oral presentation.

(c) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.

(d) BIENNIAL REPORT.—The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Commerce, Science, and Transportation a biennial report providing information on whether the Secretary has designated as hazardous materials for purposes of chapter 51 of such title all by-products of the methamphetamine-production process that are known by the Secretary to pose an unreasonable risk to health and safety or property when transported in commerce in a particular amount and form.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 761; Pub. L. 103–311, title I, § 117(a)(2), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 103–429, § 6(3), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 107–296, title XVII, § 1711(a), Nov. 25, 2002, 116 Stat. 2319; Pub. L. 109–59, title VII, §§ 7103, 7126, Aug. 10, 2005, 119 Stat. 1893, 1909; Pub. L. 109–177, title VII, § 741, Mar. 9, 2006, 120 Stat. 272.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5103(a) ..... | 49 App.:1803. | Jan. 3, 1975, Pub. L. 93–633, § 104, 88 Stat. 2156. |
| 5103(b) ..... | 49 App.:1804(a)(1)–(3). | Jan. 3, 1975, Pub. L. 93–633, § 105(a)(1)–(3), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615, § 4, 104 Stat. 3247. |

In subsection (a), the words ''such quantity and form of material'' and ''in his discretion'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''in accordance with section 553 of title 5'' are omitted because 5:553 applies unless otherwise stated. In clause (A)(i), the words ''hazardous material in commerce'', and in clause (A)(ii), the words ''hazardous material . . . in commerce'', are added for consistency in this chapter.

PUB. L. 103–429

This amends 49:5103(b)(2) to clarify the restatement of 49 App.:1804(a)(2) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 761).

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–177 added subsec. (d).

2005—Subsec. (a). Pub. L. 109–59, § 7126, substituted ''Secretary shall designate'' for ''Secretary of Transportation shall designate''.

Pub. L. 109–59, § 7103(a), substituted ''infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,'' for ''etiologic agent, flammable or combustible liquid or solid, poison, oxidizing or corrosive material,'' and ''determines'' for ''decides''.

Subsec. (b)(1)(A). Pub. L. 109–59, § 7103(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''apply to a person—

''(i) transporting hazardous material in commerce;

''(ii) causing hazardous material to be transported in commerce; or

''(iii) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a packaging or a container that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce; and''.

Subsec. (b)(1)(C). Pub. L. 109–59, § 7103(c)(1), struck out heading and text of subpar. (C). Text read as follows: ''When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.''

Subsec. (c). Pub. L. 109–59, § 7103(c)(2), added subsec. (c).

2002—Subsec. (b)(1). Pub. L. 107–296, § 1711(a)(1), substituted ''transportation, including security,'' for ''transportation'' in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 107–296, § 1711(a)(2), substituted ''aspects, including security,'' for ''aspects''.

Subsec. (b)(1)(C). Pub. L. 107–296, § 1711(a)(3), added subpar. (C).

1994—Subsec. (b)(1)(A)(iii). Pub. L. 103–311 substituted ''a packaging or a'' for ''a package or''.

Subsec. (b)(2). Pub. L. 103–429 substituted ''be conducted under section 553 of title 5, including'' for ''include'' and ''presentation'' for ''presentations''.

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 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.

RAILROAD CARRIER EMPLOYEE EXPOSURE TO RADIATION STUDY

Pub. L. 110–432, div. A, title IV, § 411, Oct. 16, 2008, 122 Stat. 4888, provided that:

''(a) STUDY.—The Secretary of Transportation shall, in consultation with the Secretary of Energy, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission, as appropriate, conduct a study of the potential hazards to which employees of railroad carriers and railroad contractors or subcontractors are exposed during the transportation of high-level radioactive waste and spent nuclear fuel (as defined in section 5101(a) [probably means section 5105(a)] of title 49, United States Code), supplementing the report submitted under section 5101(b) [probably means section 5105(b)] of that title, which may include—

''(1) an analysis of the potential application of 'as low as reasonably achievable' principles for exposure to radiation to such employees with an emphasis on the need for special protection from radiation exposure for such employees during the first trimester of pregnancy or who are undergoing or have recently undergone radiation therapy;

''(2) the feasibility of requiring real-time dosimetry monitoring for such employees;

''(3) the feasibility of requiring routine radiation exposure monitoring in fixed railroad locations, such as yards and repair facilities; and

''(4) a review of the effectiveness of the Department's packaging requirements for radioactive materials.

''(b) REPORT.—Not later than 18 months after the date of enactment of this Act [Oct. 16, 2008], the Secretary of Transportation shall transmit a report on the results of the study required by subsection (a) and any recommendations to further protect employees of a railroad carrier or of a contractor or subcontractor to a railroad carrier from unsafe exposure to radiation during the transportation of high-level radioactive waste and spent nuclear fuel to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

''(c) REGULATORY AUTHORITY.—The Secretary of Transportation may issue regulations that the Secretary determines appropriate, pursuant to the report required by subsection (b), to protect railroad employees from unsafe exposure to radiation during the transportation of radioactive materials.''

[For definitions of ''railroad carrier'', ''Department'', ''railroad'', and ''Secretary'', as used in section 411 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

SAFE PLACEMENT OF TRAIN CARS

Section 111 of Pub. L. 103–311 provided that: ''The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act [Aug. 26, 1994].''

FIBER DRUM PACKAGING

Pub. L. 104–88, title IV, § 406, Dec. 29, 1995, 109 Stat. 957, provided that:

''(a) IN GENERAL.—In the administration of chapter 51 of title 49, United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of the enactment of this Act [Dec. 29, 1995] authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991, if—

''(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act [former 49 U.S.C. 1801 et seq.] as in effect on September 30, 1991; and

''(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation or materials in Packing Groups I and II.

''(b) EXPIRATION.—The regulation referred to in subsection (a) shall expire on the later of September 30, 1997, or the date on which funds are authorized to be appropriated to carry out chapter 51 of title 49, United States Code (relating to transportation of hazardous materials), for fiscal years beginning after September 30, 1997.

''(c) STUDY.—

''(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act [Dec. 29, 1995], the Secretary shall contract with the National Academy of Sciences to conduct a study—

''(A) to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to fiber drum packaging with a removable head can be met for the transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards (including fiber drum industry standards set forth in a June 8, 1992, exemption application submitted to the Department of Transportation), other than the performance-oriented packaging standards adopted under docket number HM–181 contained in part 178 of title 49, Code of Federal Regulations; and

''(B) to determine whether a packaging standard (including such fiber drum industry standards), other than such performance-oriented packaging standards, will provide an equal or greater level of safety for the transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect.

''(2) COMPLETION.—The study shall be completed before March 1, 1997 and shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Transportation and Infrastructure Committee of the House of Representatives.

''(d) SECRETARIAL ACTION.—By September 30, 1997, the Secretary shall issue final regulations to determine what standards should apply to fiber drum packaging with a removable head for transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to

regulations in effect on September 30, 1991) after September 30, 1997. In issuing such regulations, the Secretary shall give full and substantial consideration to the results of the study conducted in subsection (c).''

Section 122 of Pub. L. 103–311 provided that:

''(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than the 60th day following the date of enactment of this Act [Aug. 26, 1994], the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM–181 contained in part 178 of title 49, Code of Federal Regulations.

''(b) ISSUANCE OF STANDARDS.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

''(c) COMPLETION OF RULEMAKING PROCEEDING.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

''(d) LIMITATIONS.—

''(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter 51 of title 49, United States Code.

''(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.''

## § 5103a. Limitation on issuance of hazmat licenses

(a) LIMITATION.—

(1) ISSUANCE OF LICENSES.—A State may not issue to any individual a license to operate a motor vehicle transporting in commerce a hazardous material unless the Secretary of Homeland Security has first determined, upon receipt of a notification under subsection (d)(1)(B), that the individual does not pose a security risk warranting denial of the license.

(2) RENEWALS INCLUDED.—For the purposes of this section, the term ''issue'', with respect to a license, includes renewal of the license.

(b) HAZARDOUS MATERIALS DESCRIBED.—The limitation in subsection (a) shall apply with respect to any material defined as hazardous material by the Secretary of Transportation for which the Secretary of Transportation requires placarding of a commercial motor vehicle transporting that material in commerce.

(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and Human Services shall recommend to the Secretary of Transportation any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) if the Secretary of Health and Human Services determines that such material or agent poses a significant risk to the health of individuals.

(d) BACKGROUND RECORDS CHECK.—

(1) IN GENERAL.—Upon the request of a State regarding issuance of a license described in subsection (a)(1) to an individual, the Attorney General—

(A) shall carry out a background records check regarding the individual; and

(B) upon completing the background records check, shall notify the Secretary of Homeland Security of the completion and results of the background records check.

(2) SCOPE.—A background records check regarding an individual under this subsection shall consist of the following:

(A) A check of the relevant criminal history data bases.

(B) In the case of an alien, a check of the relevant data bases to determine the status of the alien under the immigration laws of the United States.

(C) As appropriate, a check of the relevant international data bases through Interpol–U.S. National Central Bureau or other appropriate means.

(e) REPORTING REQUIREMENT.—Each State shall submit to the Secretary of Homeland Security, at such time and in such manner as the Secretary of Homeland Security may prescribe, the name, address, and such other information as the Secretary of Homeland Security may require, concerning—

(1) each alien to whom the State issues a license described in subsection (a); and

(2) each other individual to whom such a license is issued, as the Secretary of Homeland Security may require.

(f) ALIEN DEFINED.—In this section, the term ''alien'' has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act.

(g) BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.—

(1) IN GENERAL.—

(A) EMPLOYER NOTIFICATION.—Not later than 90 days after the date of enactment of this subsection, the Director of the Transportation Security Administration, after receiving comments from interested parties, shall develop and implement a process for notifying hazmat employers designated by an applicant of the results of the applicant's background record check, if—

(i) such notification is appropriate considering the potential security implications; and

(ii) the Director, in a final notification of threat assessment,[1] served on the applicant[1] determines that the applicant does not meet the standards set forth in regulations issued to carry out this section.

(B) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—

(i) ELIMINATION OF REDUNDANT CHECKS.—An individual with respect to whom the Transportation Security Administration—

(I) has performed a security threat assessment under this section; and

[1] So in original. Comma probably should appear after ''applicant''.

(II) has issued a final notification of no security threat,

is deemed to have met the requirements of any other background check that is required for purposes of any Federal law applicable to transportation workers if that background check is equivalent to, or less stringent than, the background check required under this section.

(ii) DETERMINATION BY DIRECTOR.—Not later than 60 days after the date of issuance of the report under paragraph (5), but no later than 120 days after the date of enactment of this subsection, the Director shall initiate a rulemaking proceeding, including notice and opportunity for comment, to determine which background checks required for purposes of Federal laws applicable to transportation workers are equivalent to, or less stringent than, those required under this section.

(iii) FUTURE RULEMAKINGS.—The Director shall make a determination under the criteria established under clause (ii) with respect to any rulemaking proceeding to establish or modify required background checks for transportation workers initiated after the date of enactment of this subsection.

(2) APPEALS PROCESS FOR MORE STRINGENT STATE PROCEDURES.—If a State establishes its own standards for applicants for a hazardous materials endorsement to a commercial driver's license, the State shall also provide—

(A) an appeals process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may appeal that denial; and

(B) a waiver process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may apply for a waiver.

(3) CLARIFICATION OF TERM DEFINED IN REGULATIONS.—The term ''transportation security incident'', as defined in part 1572 of title 49, Code of Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Not later than 30 days after the date of enactment of this subsection, the Director shall modify the definition of that term to reflect the preceding sentence.

(4) BACKGROUND CHECK CAPACITY.—Not later than October 1, 2005, the Director shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Homeland Security of the House of Representatives a report on the implementation of fingerprint-based security threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver's licenses who are applying to renew hazardous materials endorsements.

(5) REPORT.—

(A) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, the Director shall transmit to the committees referred to in paragraph (4) a report on the Director's plans to reduce or eliminate redundant background checks for holders of hazardous materials endorsements performed under this section.

(B) CONTENTS.—The report shall—

(i) include a list of background checks and other security or threat assessment requirements applicable to transportation workers under Federal laws for which the Department of Homeland Security is responsible and the process by which the Secretary of Homeland Security will determine whether such checks or assessments are equivalent to, or less stringent than, the background check performed under this section; and

(ii) provide an analysis of how the Director plans to reduce or eliminate redundant background checks in a manner that will continue to ensure the highest level of safety and security.

(h) COMMERCIAL MOTOR VEHICLE OPERATORS REGISTERED TO OPERATE IN MEXICO OR CANADA.—

(1) IN GENERAL.—Beginning on the date that is 6 months after the date of enactment of this subsection, a commercial motor vehicle operator registered to operate in Mexico or Canada shall not operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(2) EXTENSION.—The Director of the Transportation Security Administration may extend the deadline established by paragraph (1) for a period not to exceed 6 months if the Director determines that such an extension is necessary.

(3) COMMERCIAL MOTOR VEHICLE DEFINED.—In this subsection, the term ''commercial motor vehicle'' has the meaning given that term by section 31101.

(Added Pub. L. 107–56, title X, § 1012(a)(1), Oct. 26, 2001, 115 Stat. 396; amended Pub. L. 109–59, title VII, §§ 7104, 7105, 7126, Aug. 10, 2005, 119 Stat. 1894, 1909; Pub. L. 110–53, title XV, § 1556(a), Aug. 3, 2007, 121 Stat. 475; Pub. L. 110–244, title III, § 302(b), June 6, 2008, 122 Stat. 1618.)

REFERENCES IN TEXT

Section 101(a)(3) of the Immigration and Nationality Act, referred to in subsec. (f), is classified to section 1101(a)(3) of Title 8, Aliens and Nationality.

The date of enactment of this subsection, referred to in subsecs. (g) and (h), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2008—Subsec. (g)(1)(B)(ii). Pub. L. 110–244 substituted ''subsection'' for ''Act''.

2007—Subsec. (a)(1). Pub. L. 110–53, § 1556(a)(1), substituted ''Secretary of Homeland Security'' for ''Secretary''.

Subsec. (b). Pub. L. 110–53, § 1556(a)(2), substituted ''Secretary of Transportation'' for ''Secretary'' in two places.

Subsec. (d)(1)(B). Pub. L. 110–53, § 1556(a)(3), substituted ''Secretary of Homeland Security'' for ''Secretary''.

Subsec. (e). Pub. L. 110–53, § 1556(a)(4), substituted ''Secretary of Homeland Security'' for ''Secretary'' wherever appearing.

2005—Subsec. (a)(1). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Pub. L. 109–59, § 7104(c), substituted ''subsection (d)(1)(B),'' for ''subsection (c)(1)(B),''.

Subsec. (b). Pub. L. 109–59, § 7104(a), substituted ''with respect to any material defined as hazardous material by the Secretary for which the Secretary requires placarding of a commercial motor vehicle transporting that material in commerce'' for ''with respect to—

''(1) any material defined as a hazardous material by the Secretary of Transportation; and

''(2) any chemical or biological material or agent determined by the Secretary of Health and Human Services or the Attorney General as being a threat to the national security of the United States''.

Subsec. (c). Pub. L. 109–59, § 7104(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109–59, § 7104(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1)(B). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Subsec. (e). Pub. L. 109–59, § 7126, substituted ''submit to the Secretary'' for ''submit to the Secretary of Transportation'' in introductory provisions.

Pub. L. 109–59, § 7104(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–59, § 7104(b)(1), redesignated subsec. (e) as (f).

Subsecs. (g), (h). Pub. L. 109–59, § 7105, added subsecs. (g) and (h).

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 107–56, title X, § 1012(c), Oct. 26, 2001, 115 Stat. 398, provided that: ''There is authorized to be appropriated for the Department of Transportation and the Department of Justice such amounts as may be necessary to carry out section 5103a of title 49, United States Code, as added by subsection (a).''

## § 5104. Representation and tampering

(a) REPRESENTATION.—A person may represent, by marking or otherwise, that—

(1) a package, component of a package, or packaging for transporting hazardous material is safe, certified, or complies with this chapter only if the package, component of a package, or packaging meets the requirements of each applicable regulation prescribed under this chapter; or

(2) hazardous material is present in a package, container, motor vehicle, rail freight car, aircraft, or vessel only if the material is present.

(b) TAMPERING.—No person may alter, remove, destroy, or otherwise tamper unlawfully with—

(1) a marking, label, placard, or description on a document required under this chapter or a regulation prescribed under this chapter; or

(2) a package, component of a package, or packaging, container, motor vehicle, rail freight car, aircraft, or vessel used to transport hazardous material.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 761; Pub. L. 103–311, title I, § 117(b), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 103–429, § 6(4), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 109–59, title VII, § 7106, Aug. 10, 2005, 119 Stat. 1897.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5104(a) ..... | 49 App.:1804(e). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 105(e), (f); added Nov. 16, 1990, Pub. L. 101–615, § 5, 104 Stat. 3252. |
| 5104(b) ..... | 49 App.:1804(f). | |

In subsection (a)(1), the words ''the requirements of'' and ''applicable'' are omitted as surplus.

In subsection (b), before clause (1), the word ''deface'' is omitted as surplus.

PUB. L. 103–429

This amends 49:5104(a)(1) to clarify the restatement of 49 App.:1804(e)(1) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 761).

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–59, § 7106(a), substituted ''a package, component of a package, or packaging for'' for ''a container, package, or packaging (or a component of a container, package, or packaging) for'' and ''the package, component of a package, or packaging meets'' for ''the container, package, or packaging (or a component of a container, package, or packaging) meets''.

Subsec. (b). Pub. L. 109–59, § 7106(b)(1), substituted ''No person may'' for ''A person may not'' in introductory provisions.

Subsec. (b)(2). Pub. L. 109–59, § 7106(b)(2), inserted ''component of a package, or packaging,'' after ''package,''.

1994—Subsec. (a)(1). Pub. L. 103–429 inserted ''applicable'' after ''each''.

Pub. L. 103–311 substituted '', package, or packaging (or a component of a container, package, or packaging)'' for ''or package'' in two places.

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.

## § 5105. Transporting certain highly radioactive material

(a) DEFINITIONS.—In this section, ''high-level radioactive waste'' and ''spent nuclear fuel'' have the same meanings given those terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(b) TRANSPORTATION SAFETY STUDY.—In consultation with the Secretary of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the rail transportation industry, and shippers of high-level radioactive waste and spent nuclear fuel, the Secretary shall conduct a study comparing the safety of using trains operated only to transport high-level radioactive waste and spent nuclear fuel with the safety of using other methods of rail transportation for transporting that waste and fuel. The Secretary shall submit to Congress not later than November 16, 1991, a report on the results of the study.

(c) SAFE RAIL TRANSPORTATION REGULATIONS.—Not later than November 16, 1992, after considering the results of the study conducted under subsection (b) of this section, the Sec-

retary shall prescribe amendments to existing regulations that the Secretary considers appropriate to provide for the safe rail transportation of high-level radioactive waste and spent nuclear fuel, including trains operated only for transporting high-level radioactive waste and spent nuclear fuel.

(d) INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.—(1) Not later than November 16, 1991, the Secretary shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying with this chapter and applicable United States motor carrier safety laws and regulations. The Secretary may require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures.

(2) The Secretary may allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter. The inspector qualification requirements the Secretary prescribes for an individual inspecting a motor vehicle apply to an individual conducting an inspection under this paragraph.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 762; Pub. L. 109–59, title VII, §§ 7107, 7126, Aug. 10, 2005, 119 Stat. 1897, 1909.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5105(a) ..... | 49 App.:1813(e). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 116(e); added Oct. 24, 1992, Pub. L. 102–508, § 505(2), 106 Stat. 3311. |
| | 49 App.:1813 (note). | Nov. 16, 1990, Pub. L. 101–615, § 16(e), 104 Stat. 3263. |
| 5105(b) ..... | 49 App.:1813(a). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 116(a)–(d); added Oct. 30, 1984, Pub. L. 98–559, § 3, 98 Stat. 2907; restated Nov. 16, 1990, Pub. L. 101–615, § 15, 104 Stat. 3261; Oct. 24, 1992, Pub. L. 102–508, § 505(1), 106 Stat. 3311. |
| 5105(c) ..... | 49 App.:1813(b). | |
| 5105(d) ..... | 49 App.:1813(c). | |
| 5105(e) ..... | 49 App.:1813(d). | |

In subsection (a), section 16(e) of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101–615, 104 Stat. 3263) is included to correct a mistake in the source provisions being restated. See section 16(a)(1) of the Act of 1990 (Public Law 101–615, 104 Stat. 3262), stating that the meanings of ''high-level radioactive waste'' and ''spent nuclear fuel'' are as defined in 49 App.:1813, as added by section 15 of the Act (104 Stat. 3261). See also Cong. Rec. S16863 (daily ed., Oct. 23, 1990).

In subsection (b), the words ''Secretary of Energy'' are substituted for ''Department of Energy'' because of 42:7131.

In subsection (c), the word ''regulations'' is substituted for ''rule'' for consistency in the revised title and with other titles of the United States Code and because ''rule'' and ''regulation'' are synonymous.

In subsection (d), before clause (1), the words ''In combination'' are omitted as surplus.

AMENDMENTS

2005—Subsecs. (b), (c). Pub. L. 109–59, § 7126, substituted ''Secretary shall'' for ''Secretary of Transportation shall'' wherever appearing.

Subsec. (d). Pub. L. 109–59, § 7126, substituted ''Secretary shall'' for ''Secretary of Transportation shall'' in par. (1) and ''Secretary may'' for ''Secretary of Transportation may'' in par. (2).

Pub. L. 109–59, § 7107, redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to a study to be conducted not later than Nov. 16, 1991, to decide which factors, if any, shippers and carriers should consider when selecting routes and modes that would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel.

Subsec. (e). Pub. L. 109–59, § 7107(2), redesignated subsec. (e) as (d).

## § 5106. Handling criteria

The Secretary may prescribe criteria for handling hazardous material, including—

(1) a minimum number of personnel;

(2) minimum levels of training and qualifications for personnel;

(3) the kind and frequency of inspections;

(4) equipment for detecting, warning of, and controlling risks posed by the hazardous material;

(5) specifications for the use of equipment and facilities used in handling and transporting the hazardous material; and

(6) a system of monitoring safety procedures for transporting the hazardous material.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 763; Pub. L. 109–59, title VII, § 7126, Aug. 10, 2005, 119 Stat. 1909.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5106 ..... | 49 App.:1805(a). | Jan. 3, 1975, Pub. L. 93–633, § 106(a), 88 Stat. 2157. |

Before clause (1), the text of 49 App.:1805(a) (last sentence) is omitted as being included in ''prescribe''. In clause (4), the words ''to be used'' are omitted as surplus. In clause (6), the word ''assurance'' is omitted as surplus.

AMENDMENTS

2005—Pub. L. 109–59 substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions.

## § 5107. Hazmat employee training requirements and grants

(a) TRAINING REQUIREMENTS.—The Secretary shall prescribe by regulation requirements for training that a hazmat employer must give hazmat employees of the employer on the safe loading, unloading, handling, storing, and transporting of hazardous material and emergency preparedness for responding to an accident or incident involving the transportation of hazardous material. The regulations—

(1) shall establish the date, as provided by subsection (b) of this section, by which the training shall be completed; and

(2) may provide for different training for different classes or categories of hazardous material and hazmat employees.

(b) BEGINNING AND COMPLETING TRAINING.—A hazmat employer shall begin the training of

hazmat employees of the employer not later than 6 months after the Secretary prescribes the regulations under subsection (a) of this section. The training shall be completed within a reasonable period of time after—

(1) 6 months after the regulations are prescribed; or

(2) the date on which an individual is to begin carrying out a duty or power of a hazmat employee if the individual is employed as a hazmat employee after the 6-month period.

(c) CERTIFICATION OF TRAINING.—After completing the training, each hazmat employer shall certify, with documentation the Secretary may require by regulation, that the hazmat employees of the employer have received training and have been tested on appropriate transportation areas of responsibility, including at least one of the following:

(1) recognizing and understanding the Department of Transportation hazardous material classification system.

(2) the use and limitations of the Department hazardous material placarding, labeling, and marking systems.

(3) general handling procedures, loading and unloading techniques, and strategies to reduce the probability of release or damage during or incidental to transporting hazardous material.

(4) health, safety, and risk factors associated with hazardous material and the transportation of hazardous material.

(5) appropriate emergency response and communication procedures for dealing with an accident or incident involving hazardous material transportation.

(6) the use of the Department Emergency Response Guidebook and recognition of its limitations or the use of equivalent documents and recognition of the limitations of those documents.

(7) applicable hazardous material transportation regulations.

(8) personal protection techniques.

(9) preparing a shipping document for transporting hazardous material.

(d) COORDINATION OF TRAINING REQUIREMENTS.—In consultation with the Administrator of the Environmental Protection Agency and the Secretary of Labor, the Secretary shall ensure that the training requirements prescribed under this section do not conflict with or duplicate—

(1) the requirements of regulations the Secretary of Labor prescribes related to hazard communication, and hazardous waste operations, and emergency response that are contained in part 1910 of title 29, Code of Federal Regulations; and

(2) the regulations the Agency prescribes related to worker protection standards for hazardous waste operations that are contained in part 311 of title 40, Code of Federal Regulations.

(e) TRAINING GRANTS.—

(1) IN GENERAL.—Subject to the availability of funds under section 5128(c), the Secretary shall make grants under this subsection—

(A) for training instructors to train hazmat employees; and

(B) to the extent determined appropriate by the Secretary, for such instructors to train hazmat employees.

(2) ELIGIBILITY.—A grant under this subsection shall be made to a nonprofit hazmat employee organization that demonstrates—

(A) expertise in conducting a training program for hazmat employees; and

(B) the ability to reach and involve in a training program a target population of hazmat employees.

(f) TRAINING OF CERTAIN EMPLOYEES.—The Secretary shall ensure that maintenance-of-way employees and railroad signalmen receive general awareness and familiarization training and safety training pursuant to section 172.704 of title 49, Code of Federal Regulations.

(g) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary under subsections (a)–(d) of this section.

(2) An action of the Secretary under subsections (a)–(d) of this section and section 5106 is not an exercise, under section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(h) EXISTING EFFORT.—No grant under subsection (e) shall supplant or replace existing employer-provided hazardous materials training efforts or obligations.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 763; Pub. L. 103–311, title I, §§ 106, 119(c)(1)–(3), Aug. 26, 1994, 108 Stat. 1674, 1680; Pub. L. 109–59, title VII, §§ 7108, 7126, Aug. 10, 2005, 119 Stat. 1897, 1909.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5107(a) ..... | 49 App.:1805(b)(1), (2), (5) (1st sentence). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 106(b); added Nov. 16, 1990, Pub. L. 101–615, § 7(3), 104 Stat. 3253. |
| 5107(b) ..... | 49 App.:1805(b)(4), (5) (last sentence). | |
| 5107(c) ..... | 49 App.:1805(b)(6). | |
| 5107(d) ..... | 49 App.:1805(b)(3) (1st sentence). | |
| 5107(e) ..... | 49 App.:1816(a)–(c). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 118(a)–(c); added Nov. 16, 1990, Pub. L. 101–615, § 18, 104 Stat. 3269. |
| 5107(f)(1) .... | 49 App.:1805(b)(7). | |
| 5107(f)(2) .... | 49 App.:1805(b)(3) (last sentence). | |

In subsections (a)(1) and (b), before clause (1), the words ''in order to comply with requirements established by such regulations'' are omitted as surplus.

In subsection (a), before clause (1), the words ''Within 18 months after November 16, 1990'' are omitted as obsolete. In clause (1), the words ''as provided by subsection (b) of this section'' are added for clarity.

In subsection (b), before clause (1), the words ''in accordance with the requirements established by such regulations'' are omitted as surplus.

In subsection (c), before clause (1), the words ''in accordance with the requirements established under this subsection'' and ''appropriate'' before ''documentation'' are omitted as surplus.

In subsection (d), before clause (1), the words ''take such actions as may be necessary to'' are omitted as surplus. In clauses (1) and (2), the words ''(and amend-

ments thereto)'' are omitted as surplus. In clause (1), the words ''Secretary of Labor'' are substituted for ''Occupational Safety and Health Administration of the Department of Labor'' because of 29:551.

In subsection (e), the words ''and education'' are omitted as being included in ''training''. Before clause (1), the words ''regarding the safe loading, unloading, handling, storage, and transportation of hazardous materials and emergency preparedness for responding to accidents or incidents involving the transportation of hazardous materials in order to meet the requirements issued under section 1816(b) of this title may be made under this section'' are omitted as surplus.

In subsection (f)(1), the words ''(relating to coordination of Federal information policy)'' are omitted as surplus.

AMENDMENTS

2005—Subsecs. (a) to (d). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions of subsecs. (a) to (c) and ''Secretary shall'' for ''Secretary of Transportation shall'' in introductory provisions of subsec. (d).

Subsec. (e). Pub. L. 109–59, § 7108(1), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: ''The Secretary shall, subject to the availability of funds under section 5127(c)(3), make grants for training instructors to train hazmat employees under this section. A grant under this subsection shall be made to a nonprofit hazmat employee organization that demonstrates—

''(1) expertise in conducting a training program for hazmat employees; and

''(2) the ability to reach and involve in a training program a target population of hazmat employees.''

Subsec. (f). Pub. L. 109–59, § 7108(3), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–59, § 7108(2), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(1). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Subsec. (g)(2). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Pub. L. 109–59, § 7108(4), substituted ''section 5106'' for ''sections 5106, 5108(a)–(g)(1) and (h), and 5109 of this title''.

Subsec. (h). Pub. L. 109–59, § 7108(2), redesignated subsec. (g) as (h).

1994—Subsec. (d). Pub. L. 103–311, § 106, in introductory provisions inserted ''or duplicate'' after ''conflict with'' and in par. (1) substituted ''hazard communication, and hazardous waste operations, and'' for ''hazardous waste operations and''.

Subsec. (e). Pub. L. 103–311, § 119(c)(1), (2), in first sentence substituted ''The Secretary shall, subject to the availability of funds under section 5127(c)(3), make grants for training instructors to train hazmat employees under this section.'' for ''In consultation with the Secretaries of Transportation and Labor and the Administrator, the Director of the National Institute of Environmental Health Sciences may make grants to train hazmat employees under this section.'' and in second sentence inserted ''hazmat employee'' after ''nonprofit''.

Subsec. (g). Pub. L. 103–311, § 119(c)(3), added subsec. (g).

### § 5108. Registration

(a) PERSONS REQUIRED TO FILE.—(1) A person shall file a registration statement with the Secretary under this subsection if the person is transporting or causing to be transported in commerce any of the following:

(A) a highway-route-controlled quantity of radioactive material.

(B) more than 25 kilograms of a Division 1.1, 1.2, or 1.3 explosive material in a motor vehicle, rail car, or transport container.

(C) more than one liter in each package of a hazardous material the Secretary designates as extremely toxic by inhalation.

(D) hazardous material in a bulk packaging, container, or tank, as defined by the Secretary, if the bulk packaging, container, or tank has a capacity of at least 3,500 gallons or more than 468 cubic feet.

(E) a shipment of at least 5,000 pounds (except in a bulk packaging) of a class of hazardous material for which placarding of a vehicle, rail car, or freight container is required under regulations prescribed under this chapter.

(2) The Secretary may require any of the following persons to file a registration statement with the Secretary under this subsection:

(A) a person transporting or causing to be transported hazardous material in commerce and not required to file a registration statement under paragraph (1) of this subsection.

(B) a person designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

(3) A person required to file a registration statement under this subsection may transport or cause to be transported, or design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container packaging component, or container for use in transporting, hazardous material, only if the person has a statement on file as required by this subsection.

(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.

(b) FORM, CONTENTS, AND LIMITATION ON FILINGS.—(1) A registration statement under subsection (a) of this section shall be in the form and contain information the Secretary requires by regulation. The Secretary may use existing forms of the Department of Transportation and the Environmental Protection Agency to carry out this subsection. The statement shall include—

(A) the name and principal place of business of the registrant;

(B) a description of each activity the registrant carries out for which filing a statement under subsection (a) of this section is required; and

(C) each State in which the person carries out any of the activities.

(2) A person carrying out more than one activity, or an activity at more than one location, for which filing is required only has to file one registration statement to comply with subsection (a) of this section.

(c) FILING.—Each person required to file a registration statement under subsection (a) shall file the statement in accordance with regulations prescribed by the Secretary.

(d) SIMPLIFYING THE REGISTRATION PROCESS.—The Secretary may take necessary action to simplify the registration process under subsections (a)–(c) of this section and to minimize the number of applications, documents, and other information a person is required to file under this chapter and other laws of the United States.

(e) COOPERATION WITH ADMINISTRATOR.—The Administrator of the Environmental Protection Agency shall assist the Secretary in carrying out subsections (a)–(g)(1) and (h) of this section by providing the Secretary with information the Secretary requests to carry out the objectives of subsections (a)–(g)(1) and (h).

(f) AVAILABILITY OF STATEMENTS.—The Secretary shall make a registration statement filed under subsection (a) of this section available for inspection by any person for a fee the Secretary establishes. However, this subsection does not require the release of information described in section 552(b) of title 5 or otherwise protected by law from disclosure to the public.

(g) FEES.—(1) The Secretary shall establish, impose, and collect from a person required to file a registration statement under subsection (a) of this section a fee necessary to pay for the costs of the Secretary in processing the statement.

(2)(A) In addition to a fee established under paragraph (1) of this subsection, the Secretary shall establish and impose by regulation and collect an annual fee. Subject to subparagraph (B) of this paragraph, the fee shall be at least $250 but not more than $3,000 from each person required to file a registration statement under this section. The Secretary shall determine the amount of the fee under this paragraph on at least one of the following:

(i) gross revenue from transporting hazardous material.

(ii) the type of hazardous material transported or caused to be transported.

(iii) the amount of hazardous material transported or caused to be transported.

(iv) the number of shipments of hazardous material.

(v) the number of activities that the person carries out for which filing a registration statement is required under this section.

(vi) the threat to property, individuals, and the environment from an accident or incident involving the hazardous material transported or caused to be transported.

(vii) the percentage of gross revenue derived from transporting hazardous material.

(viii) the amount to be made available to carry out sections 5108(g)(2), 5115, and 5116 of this title.

(ix) other factors the Secretary considers appropriate.

(B) The Secretary shall adjust the amount being collected under this paragraph to reflect any unexpended balance in the account established under section 5116(i) of this title. However, the Secretary is not required to refund any fee collected under this paragraph.

(C) The Secretary shall transfer to the Secretary of the Treasury amounts the Secretary of Transportation collects under this paragraph for deposit in the Hazardous Materials Emergency Preparedness Fund established under section 5116(i) of this title.

(3) FEES ON EXEMPT PERSONS.—Notwithstanding subsection (a)(4), the Secretary shall impose and collect a fee of $25 from a person who is required to register under this section but who is otherwise exempted by the Secretary from paying any fee under this section. The fee shall be used to pay the costs incurred by the Secretary in processing registration statements filed by such persons.

(h) MAINTAINING PROOF OF FILING AND PAYMENT OF FEES.—The Secretary may prescribe regulations requiring a person required to file a registration statement under subsection (a) of this section to maintain proof of the filing and payment of fees imposed under subsection (g) of this section.

(i) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary under subsections (a)–(g)(1) and (h) of this section.

(2)(A) This section does not apply to an employee of a hazmat employer.

(B) Subsections (a)–(h) of this section do not apply to a department, agency, or instrumentality of the United States Government, an authority of a State or political subdivision of a State, an Indian tribe, or an employee of a department, agency, instrumentality, or authority carrying out official duties.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 765; Pub. L. 103–311, title I, §§ 104, 117(a)(3), 119(d)(1), Aug. 26, 1994, 108 Stat. 1673, 1678, 1680; Pub. L. 105–102, § 2(3), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 105–225, § 7(b)(1), Aug. 12, 1998, 112 Stat. 1511; Pub. L. 109–59, title VII, §§ 7109(a)–(c), (e), (f), 7114(d)(3), 7126, Aug. 10, 2005, 119 Stat. 1897, 1898, 1900, 1909.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5108(a)(1) .... | 49 App.:1805(c)(1). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 106(c); added Nov. 16, 1990, Pub. L. 101–615, § 8(a), 104 Stat. 3255; Oct. 24, 1992, Pub. L. 102–508, § 503(a)(1)–(3), (b), 106 Stat. 3311. |
| 5108(a)(2) .... | 49 App.:1805(c)(3). | |
| 5108(a)(3) .... | 49 App.:1805(c)(4). | |
| 5108(b) ..... | 49 App.:1805(c)(7), (8). | |
| 5108(c) ..... | 49 App.:1805(c)(5), (6). | |
| 5108(d) ..... | 49 App.:1805(c)(9). | |
| 5108(e) ..... | 49 App.:1805(c)(2). | |
| 5108(f) ..... | 49 App.:1805(c)(10). | |
| 5108(g)(1) .... | 49 App.:1805(c)(11). | |
| 5108(g)(2) .... | 49 App.:1815(h) (1)–(5). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 117A(h)(1)–(5); added Nov. 16, 1990, Pub. L. 101–615, § 17, 104 Stat. 3267. |
| 5108(h) ..... | 49 App.:1805(c)(12). | |
| 5108(i) ..... | 49 App.:1805(c) (13)–(15). | |

In subsection (b)(1), before clause (A), the words ''at a minimum'' are omitted as surplus.

In subsection (d), the words ''streamline and'', ''with respect to a person who is required to file a registration statement under this subsection'', and ''with the Department of Transportation'' are omitted as surplus.

In subsection (g), the word ''impose'' is substituted for ''assess'' for consistency in the revised title and with other titles of the United States Code.

In subsection (g)(2)(A), before clause (i), the words ''Not later than September 30, 1992'' are omitted as obsolete. In clause (viii), the words ''of funds'' are omitted as surplus.

In subsection (g)(2)(B), the words ''of fees'' and ''from persons'' are omitted as surplus.

In subsection (i)(1), the words ''(relating to coordination of Federal information policy)'' are omitted as surplus.

In subsection (i)(2)(A), the words ''Notwithstanding any other provisions of this subsection'' are omitted as surplus.

PUB. L. 105–102

This amends 49:5108(f) to correct an erroneous cross-reference.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 109–59, § 7109(a)(1), substituted ''Division 1.1, 1.2, or 1.3 explosive material'' for ''class A or B explosive''.

Subsec. (a)(2). Pub. L. 109–59, § 7126, substituted ''Secretary may'' for ''Secretary of Transportation may'' in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 109–59, § 7109(a)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''a person manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a package or container the person represents, marks, certifies, or sells for use in transporting in commerce hazardous material the Secretary designates.''

Subsec. (a)(3). Pub. L. 109–59, § 7109(a)(3), substituted ''design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container packaging component, or'' for ''manufacture, fabricate, mark, maintain, recondition, repair, or test a package or''.

Subsec. (b)(1). Pub. L. 109–59, § 7126, substituted ''Secretary requires'' for ''Secretary of Transportation requires'' in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 109–59, § 7109(b), substituted ''any of the activities'' for ''the activity''.

Subsec. (c). Pub. L. 109–59, § 7109(c), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows:

''(1) Each person required to file a registration statement under subsection (a) of this section must file the first statement not later than March 31, 1992. The Secretary of Transportation may extend that date to September 30, 1992, for activities referred to in subsection (a)(1) of this section. A person shall renew the statement periodically consistent with regulations the Secretary prescribes, but not more than once each year and not less than once every 5 years.

''(2) The Secretary of Transportation shall decide by regulation when and under what circumstances a registration statement must be amended and the procedures to follow in amending the statement.''

Subsecs. (d) to (f). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation'' in subsec. (d), ''Secretary in carrying'' for ''Secretary of Transportation in carrying'' in subsec. (e), and ''Secretary shall'' for ''Secretary of Transportation shall'' in subsec. (f).

Subsec. (g)(1). Pub. L. 109–59, § 7126, substituted ''Secretary shall'' for ''Secretary of Transportation shall''.

Pub. L. 109–59, § 7109(f)(1), substituted ''shall'' for ''may''.

Subsec. (g)(2)(A). Pub. L. 109–59, § 7126, substituted ''Secretary shall establish'' for ''Secretary of Transportation shall establish'' in introductory provisions.

Pub. L. 109–59, § 7109(f)(2), substituted ''$3,000'' for ''$5,000'' in introductory provisions.

Subsec. (g)(2)(B). Pub. L. 109–59, § 7126, substituted ''Secretary shall'' for ''Secretary of Transportation shall''.

Subsec. (g)(2)(C). Pub. L. 109–59, § 7126, substituted ''Secretary shall'' for ''Secretary of Transportation shall''.

Pub. L. 109–59, § 7114(d)(3), substituted ''the Hazardous Materials Emergency Preparedness Fund established'' for ''the account the Secretary of the Treasury establishes''.

Subsec. (g)(3). Pub. L. 109–59, § 7109(f)(3), added par. (3).

Subsec. (h). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Subsec. (i)(1). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Subsec. (i)(2)(B). Pub. L. 109–59, § 7109(e), inserted ''an Indian tribe,'' after ''subdivision of a State,''.

1998—Subsec. (f). Pub. L. 105–225 substituted ''section 552(b)'' for ''section 552(f)''.

1997—Subsec. (f). Pub. L. 105–102 which directed substitution of ''section 552(b)'' for ''section 522(f)'' could not be executed because ''section 522(f)'' did not appear.

1994—Subsec. (a)(1)(D). Pub. L. 103–311, § 117(a)(3), substituted ''a bulk packaging'' for ''a bulk package'' and ''the bulk packaging'' for ''the package''.

Subsec. (a)(4). Pub. L. 103–311, § 104, added par. (4).

Subsec. (g)(2)(A)(viii). Pub. L. 103–311, § 119(d)(1), struck out ''5107(e),'' before ''5108(g)(2)''.

REGISTRATION

Pub. L. 109–59, title VII, § 7109(d), Aug. 10, 2005, 119 Stat. 1898, provided that: ''As soon as practicable, the Administrator of the Pipeline and Hazardous Materials Safety Administration shall transmit to the Federal Motor Carrier Safety Administration hazardous material registrant information obtained before, on, or after the date of enactment of this Act [Aug. 10, 2005] under section 5108 of title 49, United States Code, together with any Department of Transportation identification number for each registrant.''

## § 5109. Motor carrier safety permits

(a) REQUIREMENT.—A motor carrier may transport or cause to be transported by motor vehicle in commerce hazardous material only if the carrier holds a safety permit the Secretary issues under this section authorizing the transportation and keeps a copy of the permit, or other proof of its existence, in the vehicle. The Secretary shall issue a permit if the Secretary finds the carrier is fit, willing, and able—

(1) to provide the transportation to be authorized by the permit;

(2) to comply with this chapter and regulations the Secretary prescribes to carry out this chapter; and

(3) to comply with applicable United States motor carrier safety laws and regulations and applicable minimum financial responsibility laws and regulations.

(b) APPLICABLE TRANSPORTATION.—The Secretary shall prescribe by regulation the hazardous material and amounts of hazardous material to which this section applies. However, this section shall apply at least to transportation by a motor carrier, in amounts the Secretary establishes, of—

(1) a class A or B explosive;

(2) liquefied natural gas;

(3) hazardous material the Secretary designates as extremely toxic by inhalation; and

(4) a highway-route-controlled quantity of radioactive material, as defined by the Secretary.

(c) APPLICATIONS.—A motor carrier shall file an application with the Secretary for a safety permit to provide transportation under this section. The Secretary may approve any part of the application or deny the application. The application shall be under oath and contain information the Secretary requires by regulation.

(d) AMENDMENTS, SUSPENSIONS, AND REVOCATIONS.—(1) After notice and an opportunity for a hearing, the Secretary may amend, suspend, or revoke a safety permit, as provided by procedures prescribed under subsection (e) of this section, when the Secretary decides the motor carrier is not complying with a requirement of this chapter, a regulation prescribed under this chapter, or an applicable United States motor carrier safety law or regulation or minimum financial responsibility law or regulation.

(2) If the Secretary decides an imminent hazard exists, the Secretary may amend, suspend, or revoke a permit before scheduling a hearing.

(e) PROCEDURES.—The Secretary shall prescribe by regulation—

(1) application procedures, including form, content, and fees necessary to recover the complete cost of carrying out this section;

(2) standards for deciding the duration, terms, and limitations of a safety permit;

(3) procedures to amend, suspend, or revoke a permit; and

(4) other procedures the Secretary considers appropriate to carry out this section.

(f) SHIPPER RESPONSIBILITY.—A person offering hazardous material for motor vehicle transportation in commerce may offer the material to a motor carrier only if the carrier has a safety permit issued under this section authorizing the transportation.

(g) CONDITIONS.—A motor carrier may provide transportation under a safety permit issued under this section only if the carrier complies with conditions the Secretary finds are required to protect public safety.

(h) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section not later than November 16, 1991.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 767; Pub. L. 109–59, title VII, § 7126, Aug. 10, 2005, 119 Stat. 1909.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5109(a) ..... | 49 App.:1805(d)(1), (2). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 106(d); added Nov. 16, 1990, Pub. L. 101–615, § 8(a), 104 Stat. 3257; Oct. 24, 1992, Pub. L. 102–508, § 503(a)(4), (5), (b), 106 Stat. 3311. |
| 5109(b) ..... | 49 App.:1805(d)(5). | |
| 5109(c) ..... | 49 App.:1805(d)(7). | |
| 5109(d) ..... | 49 App.:1805(d)(4). | |
| 5109(e) ..... | 49 App.:1805(d)(6). | |
| 5109(f) ..... | 49 App.:1805(d)(3). | |
| 5109(g) ..... | 49 App.:1805(d)(8). | |
| 5109(h) ..... | 49 App.:1805 (note). | Nov. 16, 1990, Pub. L. 101–615, § 8(b), 104 Stat. 3258. |

In subsection (a), before clause (1), the words ''Except as provided in this subsection'' and ''used to provide such transportation'' are omitted as surplus.

In subsection (b), before clause (1), the word ''all'' is omitted as surplus.

In subsection (e)(2), the word ''conditions'' is omitted as being included in ''terms''.

In subsection (h), the text of section 8(b) (words before semicolon of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101–615, 104 Stat. 3258) is omitted as obsolete.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59 substituted ''Secretary issues'' for ''Secretary of Transportation issues'' in introductory provisions.

## § 5110. Shipping papers and disclosure

(a) PROVIDING SHIPPING PAPERS.—Each person offering for transportation in commerce hazardous material to which the shipping paper requirements of the Secretary apply shall provide to the carrier providing the transportation a shipping paper that makes the disclosures the Secretary prescribes in regulations.

(b) KEEPING SHIPPING PAPERS ON THE VEHICLE.—(1) A motor carrier, and the person offering the hazardous material for transportation if a private motor carrier, shall keep the shipping paper on the vehicle transporting the material.

(2) Except as provided in paragraph (1) of this subsection, the shipping paper shall be kept in a location the Secretary specifies in a motor vehicle, train, vessel, aircraft, or facility until—

(A) the hazardous material no longer is in transportation; or

(B) the documents are made available to a representative of a department, agency, or instrumentality of the United States Government or a State or local authority responding to an accident or incident involving the motor vehicle, train, vessel, aircraft, or facility.

(c) DISCLOSURE TO EMERGENCY RESPONSE AUTHORITIES.—When an incident involving hazardous material being transported in commerce occurs, the person transporting the material, immediately on request of appropriate emergency response authorities, shall disclose to the authorities information about the material.

(d) RETENTION OF PAPERS.—

(1) OFFERORS.—The person who provides the shipping paper under this section shall retain the paper, or an electronic format of it, for a period of 2 years after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the offeror's principal place of business.

(2) CARRIERS.—The carrier required to keep the shipping paper under this section,[1] shall retain the paper, or an electronic format of it, for a period of 1 year after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the carrier's principal place of business.

(3) AVAILABILITY TO GOVERNMENT AGENCIES.—Any person required to keep a shipping paper under this subsection shall, upon request, make it available to a Federal, State, or local government agency at reasonable times and locations.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 768; Pub. L. 103–311, title I, § 115, Aug. 26, 1994, 108 Stat. 1678; Pub. L. 109–59, title VII, §§ 7110, 7126,

[1] So in original. Comma probably should not appear.

Aug. 10, 2005, 119 Stat. 1898, 1909; Pub. L. 110–244, title III, § 302(i), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5110(a) ..... | 49 App.:1804(g)(1) (1st sentence words before ''for the carrier''). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 105(g); added Nov. 16, 1990, Pub. L. 101–615, § 6, 104 Stat. 3253. |
| 5110(b) ..... | 49 App.:1804(g)(2). | |
| 5110(c) ..... | 49 App.:1804(g)(1) (1st sentence words after ''paragraph (2)'', last sentence), (3). | |
| 5110(d) ..... | 49 App.:1804(g)(4). | |

In subsection (c)(1), the words ''A motor carrier'' are substituted for ''the carrier'' for clarity.

AMENDMENTS

2008—Subsec. (d)(1). Pub. L. 110–244, § 302(i)(2), substituted ''offeror's'' for ''shipper's''.

Pub. L. 110–244, § 302(i)(1), which directed substitution of ''Offerors'' for ''Shippers'' ''in the subsection heading'', was executed by making the substitution in par. (1) heading to reflect the probable intent of Congress.

2005—Subsec. (a). Pub. L. 109–59, § 7126, substituted ''Secretary apply'' for ''Secretary of Transportation apply''.

Pub. L. 109–59, § 7110(a)(1), substituted ''in regulations'' for ''under subsection (b) of this section''.

Subsecs. (b), (c). Pub. L. 109–59, § 7110(a)(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which related to considerations and requirements in carrying out subsec. (a).

Subsec. (d). Pub. L. 109–59, § 7110(b), reenacted heading without change and amended text of subsec. (d) generally. Prior to amendment, text read as follows: ''After the hazardous material to which a shipping paper provided to a carrier under subsection (a) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) shall retain the paper or electronic image thereof for a period of 1 year to be accessible through their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations.''

Pub. L. 109–59, § 7110(a)(3), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 109–59, § 7110(a)(3), redesignated subsec. (e) as (d).

1994—Subsec. (e). Pub. L. 103–311 added subsec. (e).

IMPROVEMENTS TO HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS

Pub. L. 101–615, § 25, Nov. 16, 1990, 104 Stat. 3273, provided that:

''(a) RULEMAKING PROCEEDING.—

''(1) INITIATION.—In order to develop methods of improving the current system of identifying hazardous materials being transported in vehicles for safeguarding the health and safety of persons responding to emergencies involving such hazardous materials and the public and to facilitate the review and reporting process required by subsection (d), the Secretary of Transportation shall initiate a rulemaking proceeding not later than 30 days after the date of the enactment of this Act [Nov. 16, 1990].

''(2) PRIMARY PURPOSES.—The primary purposes of the rulemaking proceeding initiated under this subsection are—

''(A) to determine methods of improving the current system of placarding vehicles transporting hazardous materials; and

''(B) to determine methods for establishing and operating a central reporting system and computerized telecommunications data center described in subsection (b)(1).

''(3) METHODS OF IMPROVING PLACARDING SYSTEM.—The methods of improving the current system of placarding to be considered under the rulemaking proceeding initiated under this subsection shall include methods to make such placards more visible, methods to reduce the number of improper and missing placards, alternative methods of marking vehicles for the purpose of identifying the hazardous materials being transported, methods of modifying the composition of placards in order to ensure their resistance to flammability, methods of improving the coding system used with respect to such placards, identification of appropriate emergency response procedures through symbols on placards, and whether or not telephone numbers of any continually monitored telephone systems which are established under the Hazardous Materials Transportation Act [see 49 U.S.C. 5101 et seq.] are displayed on vehicles transporting hazardous materials.

''(4) COMPLETION OF RULEMAKING PROCEEDING WITH RESPECT TO REPORTING SYSTEM AND DATA CENTER.—Not later than 19 months after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall complete the rulemaking proceeding initiated with respect to the central reporting system and computerized telecommunications data center described in subsection (b).

''(5) FINAL RULE WITH RESPECT TO PLACARDING.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Transportation shall issue a final rule relating to improving the current system for placarding vehicles transporting hazardous materials.

''(b) CENTRAL REPORTING SYSTEM AND COMPUTERIZED TELECOMMUNICATIONS DATA CENTER STUDY.—

''(1) ARRANGEMENTS WITH NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the feasibility and necessity of establishing and operating a central reporting system and computerized telecommunications data center that is capable of receiving, storing, and retrieving data concerning all daily shipments of hazardous materials, that can identify hazardous materials being transported by any mode of transportation, and that can provide information to facilitate responses to accidents and incidents involving the transportation of hazardous materials.

''(2) CONSULTATION AND REPORT.—In entering into any arrangements with the National Academy of Sciences for conducting the study under this section, the Secretary of Transportation shall request the National Academy of Sciences—

''(A) to consult with the Department of Transportation, the Department of Health and Human Services, the Environmental Protection Agency, the Federal Emergency Management Agency, and the Occupational Safety and Health Administration, shippers and carriers of hazardous materials, manufacturers of computerized telecommunications systems, State and local emergency preparedness organizations (including law enforcement and firefighting organizations), and appropriate international organizations in conducting such study; and

''(B) to submit, not later than 19 months after the date of the enactment of this Act, to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Energy and Commerce and Public Works and Transportation of the House of Representatives a report on the results of such study.

Such report shall include recommendations of the National Academy of Sciences with respect to establishment and operation of a central reporting system and computerized telecommunications data center described in paragraph (1).

''(3) AUTHORIZATION OF APPROPRIATION.—In addition to amounts authorized under section 115 of the Hazardous Materials Transportation Act [see 49 U.S.C. 5127(a)], there is authorized to be appropriated to the Secretary of Transportation to carry out this subsection $350,000.

''(c) ADDITIONAL PURPOSES OF RULEMAKING PROCEEDING AND STUDY.—Additional purposes of the rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center described in subsection (b) and the study conducted under subsection (b) are—

''(1) to determine whether such a system and center should be established and operated by the United States Government or by a private entity, either on its own initiative or under contract with the United States;

''(2) to determine, on an annualized basis, the estimated cost for establishing, operating, and maintaining such a system and center and for carrier and shipper compliance with such a system;

''(3) to determine methods for financing the cost of establishing, operating, and maintaining such a system and center;

''(4) to determine projected safety benefits of establishing and operating such a system and center;

''(5) to determine whether or not shippers, carriers, and handlers of hazardous materials, in addition to law enforcement officials and persons responsible for responding to emergencies involving hazardous materials, should have access to such system for obtaining information concerning shipments of hazardous materials and technical and other information and advice with respect to such emergencies;

''(6) to determine methods for ensuring the security of the information and data stored in such a system;

''(7) to determine types of hazardous materials and types of shipments for which information and data should be stored in such a system;

''(8) to determine the degree of liability of the operator of such a system and center for providing incorrect, false, or misleading information;

''(9) to determine deadlines by which shippers, carriers, and handlers of hazardous materials should be required to submit information to the operator of such a system and center and minimum standards relating to the form and contents of such information;

''(10) to determine measures (including the imposition of civil and criminal penalties) for ensuring compliance with the deadlines and standards referred to in paragraph (9); and

''(11) to determine methods for accessing such a system through mobile satellite service or other technologies having the capability to provide 2-way voice, data, or facsimile services.

''(d) REVIEW AND REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 25 months after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall review the report of the National Academy of Sciences submitted under subsection (b) and the results of rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center and shall prepare and submit to Congress a report summarizing the report of the National Academy of Sciences and the results of such rulemaking proceeding, together with the Secretary's recommendations concerning the establishment and operation of such a system and center and the Secretary's recommendations concerning implementation of the recommendations contained in the report of the National Academy of Sciences.

''(2) WEIGHT TO BE GIVEN TO RECOMMENDATIONS OF NAS.—In conducting the review and preparing the report under this subsection, the Secretary shall give substantial weight to the recommendations contained in the report of the National Academy of Sciences submitted under subsection (b).

''(3) INCLUSION OF REASONS FOR NOT FOLLOWING RECOMMENDATIONS.—If the Secretary does not include in the report prepared for submission to Congress under this subsection a recommendation for implementation of a recommendation contained in the report of the National Academy of Sciences submitted under subsection (b), the Secretary shall include in the report to Congress under this subsection the Secretary's reasons for not recommending implementation of the recommendation of the National Academy of Sciences.''

CONTINUALLY MONITORED TELEPHONE SYSTEMS

Pub. L. 101–615, § 26, Nov. 16, 1990, 104 Stat. 3273, provided that:

''(a) RULEMAKING PROCEEDING.—Not later than 90 days after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall initiate a rulemaking proceeding on the feasibility, necessity, and safety benefits of requiring carriers involved in the hazardous materials transportation industry to establish continually monitored telephone systems equipped to provide emergency response information and assistance with respect to accidents and incidents involving hazardous materials. Additional objectives of such proceeding shall be to determine which hazardous materials, if any, should be covered by such a requirement and which segments of such industry (including persons who own and operate motor vehicles, trains, vessels, aircraft, and in-transit storage facilities) should be covered by such a requirement.

''(b) COMPLETION OF PROCEEDING.—Not later than 30 months after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall complete the proceeding under this section and may issue a final rule relating to establishment of continually monitored telephone systems described in subsection (a).''

### [§ 5111. Repealed. Pub. L. 109–59, title VII, § 7111, Aug. 10, 2005, 119 Stat. 1899]

Section, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 769, related to use of rail tank cars built before Jan. 1, 1971, to transport hazardous material in commerce.

### § 5112. Highway routing of hazardous material

(a) APPLICATION.—(1) This section applies to a motor vehicle only if the vehicle is transporting hazardous material in commerce for which placarding of the vehicle is required under regulations prescribed under this chapter. However, the Secretary by regulation may extend application of this section or a standard prescribed under subsection (b) of this section to—

(A) any use of a vehicle under this paragraph to transport any hazardous material in commerce; and

(B) any motor vehicle used to transport hazardous material in commerce.

(2) Except as provided by subsection (d) of this section and section 5125(c) of this title, each State and Indian tribe may establish, maintain, and enforce—

(A) designations of specific highway routes over which hazardous material may and may not be transported by motor vehicle; and

(B) limitations and requirements related to highway routing.

(b) STANDARDS FOR STATES AND INDIAN TRIBES.—(1) The Secretary, in consultation with the States, shall prescribe by regulation standards for States and Indian tribes to use in carrying out subsection (a) of this section. The standards shall include—

(A) a requirement that a highway routing designation, limitation, or requirement of a

State or Indian tribe shall enhance public safety in the area subject to the jurisdiction of the State or tribe and in areas of the United States not subject to the jurisdiction of the State or tribe and directly affected by the designation, limitation, or requirement;

(B) minimum procedural requirements to ensure public participation when the State or Indian tribe is establishing a highway routing designation, limitation, or requirement;

(C) a requirement that, in establishing a highway routing designation, limitation, or requirement, a State or Indian tribe consult with appropriate State, local, and tribal officials having jurisdiction over areas of the United States not subject to the jurisdiction of that State or tribe establishing the designation, limitation, or requirement and with affected industries;

(D) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe shall ensure through highway routing for the transportation of hazardous material between adjacent areas;

(E) a requirement that a highway routing designation, limitation, or requirement of one State or Indian tribe affecting the transportation of hazardous material in another State or tribe may be established, maintained, and enforced by the State or tribe establishing the designation, limitation, or requirement only if—

(i) the designation, limitation, or requirement is agreed to by the other State or tribe within a reasonable period or is approved by the Secretary under subsection (d) of this section; and

(ii) the designation, limitation, or requirement is not an unreasonable burden on commerce;

(F) a requirement that establishing a highway routing designation, limitation, or requirement of a State or Indian tribe be completed in a timely way;

(G) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe provide reasonable routes for motor vehicles transporting hazardous material to reach terminals, facilities for food, fuel, repairs, and rest, and places to load and unload hazardous material;

(H) a requirement that a State be responsible—

(i) for ensuring that political subdivisions of the State comply with standards prescribed under this subsection in establishing, maintaining, and enforcing a highway routing designation, limitation, or requirement; and

(ii) for resolving a dispute between political subdivisions; and

(I) a requirement that, in carrying out subsection (a) of this section, a State or Indian tribe shall consider—

(i) population densities;

(ii) the types of highways;

(iii) the types and amounts of hazardous material;

(iv) emergency response capabilities;

(v) the results of consulting with affected persons;

(vi) exposure and other risk factors;

(vii) terrain considerations;

(viii) the continuity of routes;

(ix) alternative routes;

(x) the effects on commerce;

(xi) delays in transportation; and

(xii) other factors the Secretary considers appropriate.

(2) The Secretary may not assign a specific weight that a State or Indian tribe shall use when considering the factors under paragraph (1)(I) of this subsection.

(c) LIST OF ROUTE DESIGNATIONS.—In coordination with the States, the Secretary shall update and publish periodically a list of currently effective hazardous material highway route designations.

(d) DISPUTE RESOLUTION.—(1) The Secretary shall prescribe regulations for resolving a dispute related to through highway routing or to an agreement with a proposed highway route designation, limitation, or requirement between or among States, political subdivisions of different States, or Indian tribes.

(2) A State or Indian tribe involved in a dispute under this subsection may petition the Secretary to resolve the dispute. The Secretary shall resolve the dispute not later than one year after receiving the petition. The resolution shall provide the greatest level of highway safety without being an unreasonable burden on commerce and shall ensure compliance with standards prescribed under subsection (b) of this section.

(3)(A) After a petition is filed under this subsection, a civil action about the subject matter of the dispute may be brought in a court only after the earlier of—

(i) the day the Secretary issues a final decision; or

(ii) the last day of the one-year period beginning on the day the Secretary receives the petition.

(B) A State or Indian tribe adversely affected by a decision of the Secretary under this subsection may bring a civil action for judicial review of the decision in an appropriate district court of the United States not later than 89 days after the day the decision becomes final.

(e) RELATIONSHIP TO OTHER LAWS.—This section and regulations prescribed under this section do not affect sections 31111 and 31113 of this title or section 127 of title 23.

(f) EXISTING RADIOACTIVE MATERIAL ROUTING REGULATIONS.—The Secretary is not required to amend or again prescribe regulations related to highway routing designations over which radioactive material may and may not be transported by motor vehicles, and limitations and requirements related to the routing, that were in effect on November 16, 1990.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 769; Pub. L. 109–59, title VII, § 7126, Aug. 10, 2005, 119 Stat. 1909.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 5112(a)(1) .... | 49 App.:1804(b)(7). | Jan. 3, 1975, Pub. L. 93–633, § 105(b)(1)–(3), (5)–(9), (c), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615, § 4, 104 Stat. 3248, 3251. |
| 5112(a)(2) .... | 49 App.:1804(b)(1). | |
| 5112(b)(1) .... | 49 App.:1804(b)(2), (3). | |
| 5112(b)(2) .... | 49 App.:1804(b)(9). | |
| 5112(c) ..... | 49 App.:1804(c). | |
| 5112(d) ..... | 49 App.:1804(b)(5). | |
| 5112(e) ..... | 49 App.:1804(b)(6). | |
| 5112(f) ..... | 49 App.:1804(b)(8). | |

In subsection (a)(1), the words ''in the area which is subject to the jurisdiction of such State or Indian tribe'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''Not later than 18 months after November 16, 1990'' are omitted as obsolete. In clause (H)(i), the words ''prescribed under this subsection'' are added for clarity.

In subsection (d)(1), the words ''within 18 months of November 16, 1990'' are omitted as obsolete. The words ''over a matter'' are omitted as surplus.

In subsection (d)(3), the word ''civil'' is added for consistency in the revised title and with other titles of the United States Code.

In subsection (e), the words ''superseding or otherwise'', ''application of'', ''relating to vehicle weight limitations'', and ''relating to vehicle length and vehicle width limitations, respectively'' are omitted as surplus.

In subsection (f), the word ''modify'' is omitted as surplus and for consistency in the revised title. The words ''issued by the Department of Transportation before November 16, 1990, and'' are omitted as obsolete.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–59 substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions.

STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS

Pub. L. 103–311, title I, § 121, Aug. 26, 1994, 108 Stat. 1681, directed Secretary of Transportation to submit to Congress, not later than 1 year after Aug. 26, 1994, report on results of study to determine safety considerations of transporting hazardous materials by motor carriers in close proximity to Federal prisons, particularly those housing maximum security prisoners, which was to include evaluation of ability of such facilities and designated local planning agencies to safely evacuate such prisoners in event of emergency and any special training, equipment, or personnel that would be required by such facility and designated local emergency planning agencies to carry out such evacuation.

## § 5113. Unsatisfactory safety rating

A violation of section 31144(c)(3) shall be considered a violation of this chapter, and shall be subject to the penalties in sections 5123 and 5124.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 771; Pub. L. 105–178, title IV, § 4009(b), June 9, 1998, 112 Stat. 407; Pub. L. 109–59, title VII, § 7112(a), Aug. 10, 2005, 119 Stat. 1899.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 5113(a) ..... | 49 App.:1814(a). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 117; added Nov. 3, 1990, Pub. L. 101–500, § 15(b)(1), 104 Stat. 1218. |
| 5113(b) ..... | 49 App.:1814(b). | |
| 5113(c) ..... | 49 App.:1814(c). | |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 5113(d) ..... | 49 App.:2501 (note). | Nov. 3, 1990, Pub. L. 101–500, § 15(b)(2), 104 Stat. 1219. |

In subsections (a) and (c), the words ''individuals'' is substituted for ''passengers, including the driver'' for clarity and consistency.

In subsection (a), before clause (1), the words ''Effective January 1, 1991'' are omitted as obsolete. The words ''to take such action as may be necessary '' are omitted as surplus.

In subsection (b), the words ''from the Secretary'' and ''conditions and other'' are omitted as surplus.

In subsection (d), the words ''Not later than 1 year after the date of enactment of this Act'' are omitted as obsolete.

AMENDMENTS

2005—Pub. L. 109–59 amended text generally. Prior to amendment, text read as follows: ''See section 31144.''

1998—Pub. L. 105–178 substituted ''See section 31144.'' for subsecs. (a) to (d) which related to unsatisfactory safety ratings.

## § 5114. Air transportation of ionizing radiation material

(a) TRANSPORTING IN AIR COMMERCE.—Material that emits ionizing radiation spontaneously may be transported on a passenger-carrying aircraft in air commerce (as defined in section 40102(a) of this title) only if the material is intended for a use in, or incident to, research or medical diagnosis or treatment and does not present an unreasonable hazard to health and safety when being prepared for, and during, transportation.

(b) PROCEDURES.—The Secretary shall prescribe procedures for monitoring and enforcing regulations prescribed under this section.

(c) NONAPPLICATION.—This section does not apply to material the Secretary decides does not pose a significant hazard to health or safety when transported because of its low order of radioactivity.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 772; Pub. L. 109–59, title VII, § 7126, Aug. 10, 2005, 119 Stat. 1909.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 5114(a) ..... | 49 App.:1807(a) (1st, 2d sentences), (b) (1st sentence). | Jan. 3, 1975, Pub. L. 93–633, § 108, 88 Stat. 2159; Nov. 16, 1990, Pub. L. 101–615, § 10, 104 Stat. 3259. |
| 5114(b) ..... | 49 App.:1807(a) (last sentence). | |
| 5114(c) ..... | 49 App.:1807(b) (last sentence). | |

In subsection (a), the text of 49 App.:1807(a) (1st sentence) is omitted as executed. The words ''or combination of materials'' are omitted as surplus.

In subsection (b), the words ''further'' and ''effective'' are omitted as surplus.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–59 substituted ''Secretary'' for ''Secretary of Transportation''.

## § 5115. Training curriculum for the public sector

(a) IN GENERAL.—In coordination with the Administrator of the Federal Emergency Manage-

ment Agency, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretaries of Labor, Energy, and Health and Human Services, and the Director of the National Institute of Environmental Health Sciences, and using existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary of Transportation shall maintain, and update periodically, a current curriculum of courses necessary to train public sector emergency response and preparedness teams in matters relating to the transportation of hazardous material. Only in developing the curriculum, the Secretary of Transportation shall consult with regional response teams established under the national contingency plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), representatives of commissions established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001), persons (including governmental entities) that provide training for responding to accidents and incidents involving the transportation of hazardous material, and representatives of persons that respond to those accidents and incidents.

(b) REQUIREMENTS.—The curriculum maintained and updated under subsection (a) of this section—

(1) shall include—

(A) a recommended course of study to train public sector employees to respond to an accident or incident involving the transportation of hazardous material and to plan for those responses;

(B) recommended basic courses and minimum number of hours of instruction necessary for public sector employees to be able to respond safely and efficiently to an accident or incident involving the transportation of hazardous material and to plan those responses; and

(C) appropriate emergency response training and planning programs for public sector employees developed with Federal financial assistance, including programs developed with grants made under section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9660a); and

(2) may include recommendations on material appropriate for use in a recommended basic course described in clause (1)(B) of this subsection.

(c) TRAINING ON COMPLYING WITH LEGAL REQUIREMENTS.—A recommended basic course described in subsection (b)(1)(B) of this section shall provide the training necessary for public sector employees to comply with—

(1) regulations related to hazardous waste operations and emergency response contained in part 1910 of title 29, Code of Federal Regulations, prescribed by the Secretary of Labor;

(2) regulations related to worker protection standards for hazardous waste operations contained in part 311 of title 40, Code of Federal Regulations, prescribed by the Administrator; and

(3) standards related to emergency response training prescribed by the National Fire Protection Association and such other voluntary consensus standard-setting organizations as the Secretary of Transportation determines appropriate.

(d) DISTRIBUTION AND PUBLICATION.—With the National Response Team—

(1) the Secretary shall distribute the curriculum and any updates to the curriculum to the regional response teams and all committees and commissions established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001); and

(2) the Secretary may publish and distribute a list of programs and courses maintained and updated under this section and of any programs utilizing such courses.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 772; Pub. L. 103–429, § 6(5), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 109–59, title VII, §§ 7113, 7126, Aug. 10, 2005, 119 Stat. 1899, 1909; Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5115(a) | 49 App.:1815(g)(1), (5). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 117A (g)(1)–(6), (8); added Nov. 16, 1990, Pub. L. 101–615, § 17, 104 Stat. 3265, 3267. |
| 5115(b) | 49 App.:1815(g)(2), (3). | |
| 5115(c) | 49 App.:1815(g)(4). | |
| 5115(d)(1) | 49 App.:1815(g)(6). | |
| 5115(d)(2) | 49 App.:1815(g)(8). | |

In subsection (c)(3), the words ''including standards 471 and 472'' are omitted as surplus.

In subsection (d)(1), the word ''updates'' is substituted for ''amendments'' for clarity.

PUB. L. 103–429

This amends 49:5115(b)(1)(C) to make a cross-reference more precise.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59, § 7113(a), inserted heading and first sentence and struck out former heading and first sentence. Text read as follows: ''Not later than November 16, 1992, in coordination with the Director of the Federal Emergency Management Agency, Chairman of the Nuclear Regulatory Commission, Administrator of the Environmental Protection Agency, Secretaries of Labor, Energy, and Health and Human Services, and Director of the National Institute of Environmental Health Sciences, and using the existing coordinating mechanisms of the national response team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary of Transportation shall develop and update periodically a curriculum consisting of a list of courses necessary to train public sector emergency response and preparedness teams.''

Subsec. (b). Pub. L. 109–59, § 7113(b)(1), substituted ''maintained and updated'' for ''developed'' in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 109–59, § 7113(b)(2), substituted ''with Federal financial assistance, including programs'' for ''under other United States Government grant programs, including those''.

Subsec. (c)(3). Pub. L. 109–59, § 7113(c), inserted ''and such other voluntary consensus standard-setting organizations as the Secretary of Transportation determines appropriate'' before period at end.

Subsec. (d). Pub. L. 109–59, § 7113(d)(1), substituted ''National Response Team'' for ''national response team'' in introductory provisions.

Subsec. (d)(1). Pub. L. 109–59, § 7113(d)(2), substituted ''Secretary'' for ''Director of the Federal Emergency Management Agency''.

Subsec. (d)(2). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Pub. L. 109–59, § 7113(d)(3), inserted ''and distribute'' after ''publish'' and substituted ''list of programs and courses maintained and updated under this section and of any programs utilizing such courses'' for ''list of programs that uses a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous material''.

1994—Subsec. (b)(1)(C). Pub. L. 103–429 substituted ''126(g)'' for ''126''.

CHANGE OF NAME

''Administrator of the Federal Emergency Management Agency'' substituted for ''Director of the Federal Emergency Management Agency'' in subsec. (a) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

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.

## § 5116. Planning and training grants, monitoring, and review

(a) PLANNING GRANTS.—(1) The Secretary shall make grants to States and Indian tribes—

(A) to develop, improve, and carry out emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.), including ascertaining flow patterns of hazardous material on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe; and

(B) to decide on the need for a regional hazardous material emergency response team.

(2) The Secretary may make a grant to a State or Indian tribe under paragraph (1) of this subsection in a fiscal year only if—

(A) the State or Indian tribe certifies that the total amount the State or Indian tribe expends (except amounts of the United States Government) to develop, improve, and carry out emergency plans under the Act will at least equal the average level of expenditure for the last 5 fiscal years; and

(B) the State agrees to make available at least 75 percent of the amount of the grant under paragraph (1) of this subsection in the fiscal year to local emergency planning committees established under section 301(c) of the Act (42 U.S.C. 11001(c)) to develop emergency plans under the Act.

(3) A State or Indian tribe receiving a grant under this subsection shall ensure that planning under the grant is coordinated with emergency planning conducted by adjacent States and Indian tribes.

(b) TRAINING GRANTS.—(1) The Secretary shall make grants to States and Indian tribes to train public sector employees to respond to accidents and incidents involving hazardous material.

(2) The Secretary may make a grant under paragraph (1) of this subsection in a fiscal year—

(A) to a State or Indian tribe only if the State or tribe certifies that the total amount the State or tribe expends (except amounts of the Government) to train public sector employees to respond to an accident or incident involving hazardous material will at least equal the average level of expenditure for the last 5 fiscal years;

(B) to a State or Indian tribe only if the State or tribe makes an agreement with the Secretary that the State or tribe will use in that fiscal year, for training public sector employees to respond to an accident or incident involving hazardous material—

(i) a course developed or identified under section 5115 of this title; or

(ii) another course the Secretary decides is consistent with the objectives of this section; and

(C) to a State only if the State agrees to make available at least 75 percent of the amount of the grant under paragraph (1) of this subsection in the fiscal year for training public sector employees a political subdivision of the State employs or uses.

(3) A grant under this subsection may be used—

(A) to pay—

(i) the tuition costs of public sector employees being trained;

(ii) travel expenses of those employees to and from the training facility;

(iii) room and board of those employees when at the training facility; and

(iv) travel expenses of individuals providing the training;

(B) by the State, political subdivision, or Indian tribe to provide the training; and

(C) to make an agreement the Secretary approves authorizing a person (including an authority of a State or political subdivision of a State or Indian tribe) to provide the training—

(i) if the agreement allows the Secretary and the State or tribe to conduct random examinations, inspections, and audits of the training without prior notice; and

(ii) if the State or tribe conducts at least one on-site observation of the training each year.

(4) The Secretary shall allocate amounts made available for grants under this subsection for a fiscal year among eligible States and Indian tribes based on the needs of the States and tribes for emergency response training. In making a decision about those needs, the Secretary shall consider—

(A) the number of hazardous material facilities in the State or on land under the jurisdiction of the tribe;

(B) the types and amounts of hazardous material transported in the State or on that land;

(C) whether the State or tribe imposes and collects a fee on transporting hazardous material;

(D) whether the fee is used only to carry out a purpose related to transporting hazardous material; and

(E) other factors the Secretary decides are appropriate to carry out this subsection.

(c) COMPLIANCE WITH CERTAIN LAW.—The Secretary may make a grant to a State under this section in a fiscal year only if the State certifies that the State complies with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001, 11003).

(d) APPLICATIONS.—A State or Indian tribe interested in receiving a grant under this section shall submit an application to the Secretary. The application must be submitted at the time, and contain information, the Secretary requires by regulation to carry out the objectives of this section.

(e) GOVERNMENT'S SHARE OF COSTS.—A grant under this section is for 80 percent of the cost the State or Indian tribe incurs in the fiscal year to carry out the activity for which the grant is made. Amounts of the State or tribe under subsections (a)(2)(A) and (b)(2)(A) of this section are not part of the non-Government share under this subsection.

(f) MONITORING AND TECHNICAL ASSISTANCE.—In coordination with the Secretaries of Transportation and Energy, Administrator of the Environmental Protection Agency, and Director of the National Institute of Environmental Health Sciences, the Administrator of the Federal Emergency Management Agency shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretaries, Administrators, and Director each shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.

(g) DELEGATION OF AUTHORITY.—To minimize administrative costs and to coordinate Federal financial assistance for emergency response training and planning, the Secretary may delegate to the Administrator of the Federal Emergency Management Agency, Director of the National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, Administrator of the Environmental Protection Agency, and Secretaries of Labor and Energy any of the following:

(1) authority to receive applications for grants under this section.

(2) authority to review applications for technical compliance with this section.

(3) authority to review applications to recommend approval or disapproval.

(4) any other ministerial duty associated with grants under this section.

(h) MINIMIZING DUPLICATION OF EFFORT AND EXPENSES.—The Secretaries of Transportation, Labor, and Energy, Administrator of the Federal Emergency Management Agency, Director of the National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, and Administrator of the Environmental Protection Agency shall review periodically, with the head of each department, agency, or instrumentality of the Government, all emergency response and preparedness training programs of that department, agency, or instrumentality to minimize duplication of effort and expense of the department, agency, or instrumentality in carrying out the programs and shall take necessary action to minimize duplication.

(i) ANNUAL REGISTRATION FEE ACCOUNT AND ITS USES.—The Secretary of the Treasury shall establish an account in the Treasury (to be known as the ''Hazardous Materials Emergency Preparedness Fund'') into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title. Without further appropriation, amounts in the account are available—

(1) to make grants under this section;

(2) to monitor and provide technical assistance under subsection (f) of this section;

(3) to publish and distribute an emergency response guide; and

(4) to pay administrative costs of carrying out this section and sections 5108(g)(2) and 5115 of this title, except that not more than 2 percent of the amounts made available from the account in a fiscal year may be used to pay those costs.

(j) SUPPLEMENTAL TRAINING GRANTS.—

(1) In order to further the purposes of subsection (b), the Secretary shall, subject to the availability of funds, make grants to national nonprofit employee organizations engaged solely in fighting fires for the purpose of training instructors to conduct hazardous materials response training programs for individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

(2) For the purposes of this subsection the Secretary, after consultation with interested organizations, shall—

(A) identify regions or locations in which fire departments or other organizations which provide emergency response to hazardous materials transportation accidents and incidents are in need of hazardous materials training; and

(B) prioritize such needs and develop a means for identifying additional specific training needs.

(3) Funds granted to an organization under this subsection shall only be used—

(A) to train instructors to conduct hazardous materials response training programs;

(B) to purchase training equipment used exclusively to train instructors to conduct such training programs; and

(C) to disseminate such information and materials as are necessary for the conduct of such training programs.

(4) The Secretary may only make a grant to an organization under this subsection in a fis-

cal year if the organization enters into an agreement with the Secretary to train instructors to conduct hazardous materials response training programs in such fiscal year that will use—

(A) a course or courses developed or identified under section 5115 of this title; or

(B) other courses which the Secretary determines are consistent with the objectives of this subsection;

for training individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials. Such agreement also shall provide that training courses shall be open to all such individuals on a nondiscriminatory basis.

(5) The Secretary may impose such additional terms and conditions on grants to be made under this subsection as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this subsection.

(k) REPORTS.—The Secretary 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 and make available to the public information on the allocation and uses of the planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107. The report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of persons trained under the grant programs, and an evaluation of the efficacy of training programs carried out.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 773; Pub. L. 103–311, title I, §§ 105, 119(a), (d)(2), (3), Aug. 26, 1994, 108 Stat. 1673, 1679, 1680; Pub. L. 103–429, § 7(c), Oct. 31, 1994, 108 Stat. 4389; Pub. L. 104–287, §§ 5(8), 6(b), Oct. 11, 1996, 110 Stat. 3389, 3398; Pub. L. 109–59, title VII, §§ 7114(a)–(d)(2), (e), 7126, Aug. 10, 2005, 119 Stat. 1900, 1909; Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5116(a) | 49 App.:1815(a). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 117A(a)–(f), (g)(7), (9), (h)(6); added Nov. 16, 1990, Pub. L. 101–615, § 17, 104 Stat. 3263, 3266, 3267, 3268. |
| 5116(b)(1) | 49 App.:1815(b)(1). | |
| 5116(b)(2) | 49 App.:1815(b)(2)–(4). | |
| 5116(b)(3) | 49 App.:1815(b)(5), (6). | |
| 5116(b)(4) | 49 App.:1815(b)(7). | |
| 5116(c) | 49 App.:1815(c). | |
| 5116(d) | 49 App.:1815(e). | |
| 5116(e) | 49 App.:1815(d). | |
| 5116(f) | 49 App.:1815(g)(7). | |
| 5116(g) | 49 App.:1815(f). | |
| 5116(h) | 49 App.:1815(g)(9). | |
| 5116(i) | 49 App.:1815(h)(6). | |

In subsections (a)(2)(A) and (b)(2)(A), the words ''at least equal'' are substituted for ''be maintained at a level which does not fall below'' to eliminate unnecessary words.

In subsection (a)(2)(B), the words ''by the State emergency response commission'' are omitted as surplus.

In subsection (b)(2)(B)(i), the words ''or courses'' are omitted because of 1:1.

In subsection (c), the words ''including compliance with such sections with respect to accidents and incidents involving the transportation of hazardous materials'' are omitted as surplus.

In subsection (d), the word ''section'' is substituted for ''subsection'' for clarity because there are no objectives in the subsection being restated.

In subsection (e), the words ''A grant under this section is for'' are substituted for ''By a grant under this section, the Secretary shall reimburse any State or Indian tribe an amount not to exceed'' to eliminate unnecessary words and for consistency in the revised title. The words ''which are required to be expended under subsections (a)(2) and (b)(2) of this section'' are omitted as surplus. The words ''under this subsection'' are added for clarity.

In subsection (h), the words ''including coordination of training programs'' are omitted as surplus.

PUB. L. 104–287, § 5(8)

This amends 49:5116(j)(4)(A) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The Emergency Planning and Community Right-To-Know Act of 1986, referred to in subsec. (a)(1)(A), (2), is title III of Pub. L. 99–499, Oct. 17, 1986, 100 Stat. 1728, which is classified generally to chapter 116 (§ 11001 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 11001 of Title 42 and Tables.

AMENDMENTS

2005—Subsec. (a)(1), (2). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 109–59, § 7114(a), substituted ''5 fiscal years'' for ''2 fiscal years''.

Subsec. (b)(1). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Subsec. (b)(2). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions.

Subsec. (b)(2)(A). Pub. L. 109–59, § 7114(a), substituted ''5 fiscal years'' for ''2 fiscal years''.

Subsec. (b)(3)(C), (4). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions of par. (3)(C) and ''Secretary shall allocate'' for ''Secretary of Transportation shall allocate'' in introductory provisions of par. (4).

Subsecs. (c), (d). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation'' in subsec. (c) and ''Secretary.'' for ''Secretary of Transportation.'' in subsec. (d).

Subsec. (f). Pub. L. 109–59, § 7114(b), substituted ''National Response Team'' for ''national response team''.

Subsec. (g). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions.

Pub. L. 109–59, § 7114(c), substituted ''Federal financial assistance'' for ''Government grant programs'' in introductory provisions.

Subsec. (i). Pub. L. 109–59, § 7114(d)(1), (2), in introductory provisions, inserted ''(to be known as the 'Hazardous Materials Emergency Preparedness Fund')'' after ''an account in the Treasury'' and struck out ''collects under section 5108(g)(2)(A) of this title and'' before ''transfers to the Secretary'', added par. (3), and redesignated former par. (3) as (4) and substituted ''2 percent'' for ''10 percent''.

Subsec. (k). Pub. L. 109–59, § 7114(e), substituted ''The Secretary 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 and make available to the public information on the allocation and uses of the planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107'' for ''Not later than September 30, 1997, the Secretary shall submit to Congress a report on the allocation and uses of training grants authorized under subsection (b) for fiscal year 1993 through fiscal year 1996 and grants authorized under subsection (j) and section 5107 for fiscal years 1995 and 1996'' and ''The report'' for ''Such report''.

1996—Subsec. (a)(2). Pub. L. 104–287, § 6(b), made technical correction to directory language of Pub. L. 103–311, § 105(b)(2). See 1994 Amendment note below.

Subsec. (j)(4)(A). Pub. L. 104–287, § 5(8), substituted ''section 5115 of this title'' for ''subsection (g)''.

1994—Subsec. (a)(1). Pub. L. 103–311, § 105(a), in introductory provisions inserted ''and Indian tribes'' after ''States'', and in subpar. (A) substituted ''on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe'' for ''in a State and between States''.

Subsec. (a)(2). Pub. L. 103–311, § 105(b)(2), as amended by Pub. L. 104–287, § 6(b), struck out ''the State'' after ''only if'' in introductory provisions.

Pub. L. 103–311, § 105(b)(1), inserted ''or Indian tribe'' after ''grant to a State'' in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 103–311, § 105(b)(1), (3), inserted ''the State or Indian tribe'' before ''certifies'' and ''or Indian tribe'' before ''expends''.

Subsec. (a)(2)(B). Pub. L. 103–311, § 105(b)(4), inserted ''the State'' before ''agrees''.

Subsec. (a)(3). Pub. L. 103–311, § 105(c), added par. (3).

Subsec. (i)(1). Pub. L. 103–311, § 119(d)(2), as amended by Pub. L. 103–429, struck out ''and section 5107(e) of this title'' after ''under this section''.

Subsec. (i)(3). Pub. L. 103–311, § 119(d)(3), as amended by Pub. L. 103–429, substituted ''5108(g)(2)'' for ''5107(e), 5108(g)(2),''.

Subsecs. (j), (k). Pub. L. 103–311, § 119(a), added subsecs. (j) and (k).

CHANGE OF NAME

''Administrator of the Federal Emergency Management Agency'', ''Administrators, and Director'', and ''Administrator of the Federal Emergency Management Agency, Director of the National Institute of Environmental Health Sciences'' substituted for ''Director of the Federal Emergency Management Agency'', ''Administrator, and Directors'', and ''Directors of the Federal Emergency Management Agency and National Institute of Environmental Health Sciences'', respectively, in subsecs. (f) to (h), on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 6(b) of Pub. L. 104–287 provided that the amendment made by that section is effective Aug. 26, 1994.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 7(c) of Pub. L. 103–429 provided that the amendment made by that section is effective Aug. 26, 1994.

### § 5117. Special permits and exclusions

(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—(1) As provided under procedures prescribed by regulation, the Secretary may issue, modify, or terminate a special permit authorizing a variance from this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title to a person performing a function regulated by the Secretary under section 5103(b)(1) in a way that achieves a safety level—

(A) at least equal to the safety level required under this chapter; or

(B) consistent with the public interest and this chapter, if a required safety level does not exist.

(2) A special permit issued under this section shall be effective for an initial period of not more than 2 years and may be renewed by the Secretary upon application for successive periods of not more than 4 years each or, in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.

(b) APPLICATIONS.—When applying for a special permit or renewal of a special permit under this section, the person must provide a safety analysis prescribed by the Secretary that justifies the special permit. The Secretary shall publish in the Federal Register notice that an application for a special permit has been filed and shall give the public an opportunity to inspect the safety analysis and comment on the application. This subsection does not require the release of information protected by law from public disclosure.

(c) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall issue or renew the special permit for which an application was filed or deny such issuance or renewal within 180 days after the first day of the month following the date of the filing of such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the special permit is delayed, along with an estimate of the additional time necessary before the decision is made.

(d) EXCLUSIONS.—(1) The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

(A) a public vessel (as defined in section 2101 of title 46);

(B) a vessel exempted under section 3702 of title 46 from chapter 37 of title 46; and

(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.).

(2) This chapter and regulations prescribed under this chapter do not prohibit—

(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

(B) transportation of a firearm or ammunition in commerce.

(e) LIMITATION ON AUTHORITY.—Unless the Secretary decides that an emergency exists, a special permit or renewal granted under this section is the only way a person subject to this chapter may be granted a variance from this chapter.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 776; Pub. L. 103–311, title I, § 120(a), Aug. 26, 1994, 108 Stat. 1680; Pub. L. 109–59, title VII, §§ 7115(a)(1), (b)–(g), 7126, Aug. 10, 2005, 119 Stat. 1901, 1909.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5117(a) ..... | 49 App.:1806(a) (1st, 2d sentences). | Jan. 3, 1975, Pub. L. 93–633, § 107, 88 Stat. 2158; Nov. 16, 1990, Pub. L. 101–615, § 9, 104 Stat. 3259. |
| 5117(b) ..... | 49 App.:1806(a) (3d–last sentences). | |
| 5117(c)(1) .... | 49 App.:1806(b). | |
| 5117(c)(2) .... | 49 App.:1806(c). | |
| 5117(d) ..... | 49 App.:1806(d). | |

In subsection (a)(1), before clause (A), the words ''or renew'' and ''subject to the requirements of this chapter'' are omitted as surplus. In clause (A), the words ''at least equal to the safety level required under this chapter'' are substituted for ''which is equal to or exceeds that level of safety which would be required in the absence of such exemption'' to eliminate unnecessary words.

In subsection (a)(2), the words ''issued or renewed'' are omitted as surplus.

In subsection (b), the words ''upon application'' and ''grant of such'' are omitted as surplus. The words ''give the public an opportunity to inspect'' are substituted for ''afford access to . . . public'' for clarity. The words ''described by subsection (b) of section 552 of title 5, or which is otherwise'' are omitted as surplus.

In subsection (c)(1), clauses (A) and (B) are substituted for ''any vessel which is excepted from the application of section 201 of the Ports and Waterways Safety Act of 1972 by paragraph (2) of such section''. Section 201 of that Act amended section 4417a of the Revised Statutes (classified at 46:391a prior to its repeal and reenactment as part of the codification of subtitle II of title 46 in 1983). Clauses (A) and (B) restate the exceptions provided by section 201 of that Act and by section 4417a of the Revised Statutes as subsequently amended. Clause (C) is substituted for ''any other vessel regulated under such Act, to the extent of such regulation'' because of the restatement.

In subsection (c)(2), before clause (A), the word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code.

In subsection (d), the words ''by which'', ''the requirements of'', and ''or relieved of the obligation to meet any requirements imposed under'' are omitted as surplus.

REFERENCES IN TEXT

The Ports and Waterways Safety Act of 1972, referred to in subsec. (d)(1)(C), is Pub. L. 92–340, July 10, 1972, 86 Stat. 424, as amended, which is classified generally to chapter 25 (§ 1221 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 1221 of Title 33 and Tables.

AMENDMENTS

2005—Pub. L. 109–59, § 7115(a)(1), substituted ''Special permits and exclusions'' for ''Exemptions and exclusions'' in section catchline.

Subsec. (a). Pub. L. 109–59, § 7115(b), substituted ''Issue Special Permits'' for ''Exempt'' in heading.

Subsec. (a)(1). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions.

Pub. L. 109–59, § 7115(c), in introductory provisions, substituted ''issue, modify, or terminate a special permit authorizing a variance'' for ''issue an exemption'' and ''performing a function regulated by the Secretary under section 5103(b)(1)'' for ''transporting, or causing to be transported, hazardous material''.

Subsec. (a)(2). Pub. L. 109–59, § 7115(d), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''An exemption under this subsection is effective for not more than 2 years and may be renewed on application to the Secretary.''

Subsec. (b). Pub. L. 109–59, § 7115(e), substituted ''the special permit'' for ''the exemption'' and substituted ''a special permit'' for ''an exemption'' wherever appearing.

Subsec. (c). Pub. L. 109–59, § 7115(f), substituted ''the special permit'' for ''the exemption'' in two places.

Subsec. (e). Pub. L. 109–59, § 7115(g), substituted ''a special permit'' for ''an exemption'' and ''be granted a variance'' for ''be exempt''.

1994—Subsecs. (c) to (e). Pub. L. 103–311 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

## [§ 5118. Repealed. Pub. L. 109–59, title VII, § 7115(h), Aug. 10, 2005, 119 Stat. 1901]

Section, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 777; Pub. L. 108–426, § 2(c)(2), Nov. 30, 2004, 118 Stat. 2424, related to employment of additional hazardous material safety inspectors.

## § 5119. Uniform forms and procedures

(a) ESTABLISHMENT OF WORKING GROUP.—The Secretary shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the National Conference of State Legislatures, and the Alliance for Uniform Hazmat Transportation Procedures.

(b) PURPOSE OF WORKING GROUP.—The purpose of the working group shall be to develop uniform forms and procedures for a State to register, and to issue permits to, persons that transport, or cause to be transported, hazardous material by motor vehicle in the State.

(c) LIMITATION ON WORKING GROUP.—The working group may not propose to define or limit the amount of a fee a State may impose or collect.

(d) PROCEDURE.—The Secretary shall develop a procedure for the working group to employ in developing recommendations for the Secretary to harmonize existing State registration and permit laws and regulations relating to the transportation of hazardous materials, with special attention paid to each State's unique safety concerns and interest in maintaining strong hazmat safety standards.

(e) REPORT OF WORKING GROUP.—Not later than 18 months after the date of enactment of this subsection, the working group shall transmit to the Secretary a report containing recommendations for establishing uniform forms and procedures described in subsection (b).

(f) REGULATIONS.—Not later than 18 months after the date the working group's report is delivered to the Secretary, the Secretary shall issue regulations to carry out such recommendations of the working group as the Secretary considers appropriate. In developing such regulations, the Secretary shall consider the State needs associated with the transition to and implementation of a uniform forms and procedures program.

(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from voluntarily participating in a program of uniform forms and procedures until such time as the Secretary issues regulations under subsection (f).

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 777; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389;

Pub. L. 109–59, title VII, § 7116, Aug. 10, 2005, 119 Stat. 1901.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5119(a) ..... | 49 App.:1819(a). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 121(a)–(g); added Nov. 16, 1990, Pub. L. 101–615, § 22, 104 Stat. 3271; Oct. 24, 1992, Pub. L. 102–508, § 507, 106 Stat. 3312. |
| 5119(b) ..... | 49 App.:1819(b), (c). | |
| 5119(c)(1) .... | 49 App.:1819(d). | |
| 5119(c)(2) .... | 49 App.:1819(e). | |
| 5119(c)(3) .... | 49 App.:1819(f). | |
| 5119(d) ..... | 49 App.:1819(g). | |

In subsection (a), before clause (1), the words ''As soon as practicable after November 16, 1990'' are omitted as obsolete.

In subsection (c)(1), the words ''Subject to the provisions of this subsection'' and ''to the Secretary'' are omitted as surplus.

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (e), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2005—Pub. L. 109–59 reenacted section catchline without change and amended text generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to establishment of working group, consultation and reporting, regulations, and relationship to other laws.

1996—Subsec. (b)(2), Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

## § 5120. International uniformity of standards and requirements

(a) PARTICIPATION IN INTERNATIONAL FORUMS.—Subject to guidance and direction from the Secretary of State, the Secretary of Transportation shall participate in international forums that establish or recommend mandatory standards and requirements for transporting hazardous material in international commerce.

(b) CONSULTATION.—The Secretary may consult with interested authorities to ensure that, to the extent practicable, regulations the Secretary prescribes under sections 5103(b), 5104, 5110, and 5112 of this title are consistent with standards and requirements related to transporting hazardous material that international authorities adopt.

(c) DIFFERENCES WITH INTERNATIONAL STANDARDS AND REQUIREMENTS.—This section—

(1) does not require the Secretary to prescribe a standard or requirement identical to a standard or requirement adopted by an international authority if the Secretary decides the standard or requirement is unnecessary or unsafe; and

(2) does not prohibit the Secretary from prescribing a safety standard or requirement more stringent than a standard or requirement adopted by an international authority if the Secretary decides the standard or requirement is necessary in the public interest.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 778; Pub. L. 109–59, title VII, §§ 7117, 7126, Aug. 10, 2005, 119 Stat. 1902, 1909.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5120(a) ..... | 49 App.:1804(d)(1). | Jan. 3, 1975, Pub. L. 93–633, § 105(d), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615 § 4, 104 Stat. 3252. |
| 5120(b) ..... | 49 App.:1804(d)(2) (1st sentence). | |
| 5120(c) ..... | 49 App.:1804(d)(2) (last sentence). | |

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–59, § 7126, substituted ''Secretary may'' for ''Secretary of Transportation may''.

Pub. L. 109–59, § 7117(a), inserted ''and requirements'' after ''standards''.

Subsec. (c)(1). Pub. L. 109–59, § 7126, substituted ''Secretary to prescribe'' for ''Secretary of Transportation to prescribe''.

Pub. L. 109–59, § 7117(b)(1), inserted ''or requirement'' after ''standard'' wherever appearing.

Subsec. (c)(2). Pub. L. 109–59, § 7117(b)(2), struck out ''included in a standard'' before ''adopted'' and inserted ''standard or'' before ''requirement'' wherever appearing.

## § 5121. Administrative

(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary may investigate, conduct tests, make reports, issue subpenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. Except as provided in subsections (c) and (d), after notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed, or an order, special permit, or approval issued, under this chapter.

(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

(1) maintain records and property, make reports, and provide information the Secretary by regulation or order requires; and

(2) make the records, property, reports, and information available for inspection when the Secretary undertakes an investigation or makes a request.

(c) INSPECTIONS AND INVESTIGATIONS.—

(1) IN GENERAL.—A designated officer, employee, or agent of the Secretary—

(A) may inspect and investigate, at a reasonable time and in a reasonable manner, records and property relating to a function described in section 5103(b)(1);

(B) except in the case of packaging immediately adjacent to its hazardous material contents, may gain access to, open, and examine a package offered for, or in, transportation when the officer, employee, or agent has an objectively reasonable and articulable belief that the package may contain a hazardous material;

(C) may remove from transportation a package or related packages in a shipment offered for or in transportation for which—

(i) such officer, employee, or agent has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

(ii) such officer, employee, or agent contemporaneously documents such belief in

accordance with procedures set forth in guidance or regulations prescribed under subsection (e);

(D) may gather information from the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package, to ascertain the nature and hazards of the contents of the package;

(E) as necessary, under terms and conditions specified by the Secretary, may order the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package to have the package transported to, opened, and the contents examined and analyzed, at a facility appropriate for the conduct of such examination and analysis; and

(F) when safety might otherwise be compromised, may authorize properly qualified personnel to assist in the activities conducted under this subsection.

(2) DISPLAY OF CREDENTIALS.—An officer, employee, or agent acting under this subsection shall display proper credentials when requested.

(3) SAFE RESUMPTION OF TRANSPORTATION.—In instances when, as a result of an inspection or investigation under this subsection, an imminent hazard is not found to exist, the Secretary, in accordance with procedures set forth in regulations prescribed under subsection (e), shall assist—

(A) in the safe and prompt resumption of transportation of the package concerned; or

(B) in any case in which the hazardous material being transported is perishable, in the safe and expeditious resumption of transportation of the perishable hazardous material.

(d) EMERGENCY ORDERS.—

(1) IN GENERAL.—If, upon inspection, investigation, testing, or research, the Secretary determines that a violation of a provision of this chapter, or a regulation prescribed under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

(2) WRITTEN ORDERS.—The action of the Secretary under paragraph (1) shall be in a written emergency order that—

(A) describes the violation, condition, or practice that constitutes or is causing the imminent hazard;

(B) states the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and

(C) describes the standards and procedures for obtaining relief from the order.

(3) OPPORTUNITY FOR REVIEW.—After taking action under paragraph (1), the Secretary shall provide for review of the action under section 554 of title 5 if a petition for review is filed within 20 calendar days of the date of issuance of the order for the action.

(4) EXPIRATION OF EFFECTIVENESS OF ORDER.—If a petition for review of an action is filed under paragraph (3) and the review under that paragraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

(5) OUT-OF-SERVICE ORDER DEFINED.—In this subsection, the term ''out-of-service order'' means a requirement that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, potable tank, or other package not be moved until specified conditions have been met.

(e) REGULATIONS.—

(1) TEMPORARY REGULATIONS.—Not later than 60 days after the date of enactment of the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005, the Secretary shall issue temporary regulations to carry out subsections (c) and (d). The temporary regulations shall expire on the date of issuance of the regulations under paragraph (2).

(2) FINAL REGULATIONS.—Not later than 1 year after such date of enactment, the Secretary shall issue regulations to carry out subsections (c) and (d) in accordance with subchapter II of chapter 5 of title 5.

(f) FACILITY, STAFF, AND REPORTING SYSTEM ON RISKS, EMERGENCIES, AND ACTIONS.—(1) The Secretary shall—

(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk related to the transportation of hazardous material and material alleged to be hazardous;

(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, other interested individuals, and officers and employees of the Government and State and local governments on meeting an emergency related to the transportation of hazardous material; and

(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

(2) Paragraph (1) of this subsection does not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

(g) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may enter into grants and cooperative agreements with a person, agency, or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other appropriate entity—

(1) to expand risk assessment and emergency response capabilities with respect to the security of transportation of hazardous material;

(2) to enhance emergency communications capacity as determined necessary by the Secretary, including the use of integrated, inter-

operable emergency communications technologies where appropriate;

(3) to conduct research, development, demonstration, risk assessment, and emergency response planning and training activities; or

(4) to otherwise carry out this chapter.

(h) REPORT.—The Secretary shall, once every 2 years, prepare and 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 comprehensive report on the transportation of hazardous materials during the preceding 2 calendar years. The report shall include—

(1) a statistical compilation of accidents and casualties related to the transportation of hazardous material;

(2) a list and summary of applicable Government regulations, criteria, orders, and special permits;

(3) a summary of the basis for each special permit;

(4) an evaluation of the effectiveness of enforcement activities relating to a function regulated by the Secretary under section 5103(b)(1) and the degree of voluntary compliance with regulations;

(5) a summary of outstanding problems in carrying out this chapter in order of priority; and

(6) recommendations for appropriate legislation.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 779; Pub. L. 103–311, title I, §§ 108, 117(a)(2), Aug. 26, 1994, 108 Stat. 1674, 1678; Pub. L. 109–59, title VII, §§ 7118, 7126, Aug. 10, 2005, 119 Stat. 1902, 1909; Pub. L. 110–244, title III, § 302(e), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5121(a) ..... | 49 App.:1808(a) (1st sentence, last sentence words before semicolon). | Jan. 3, 1975, Pub. L. 93–633, § 109(a) (1st sentence, last sentence words before semicolon), (b), (c), 88 Stat. 2159. |
| 5121(b) ..... | 49 App.:1808(b). | |
| 5121(c) ..... | 49 App.:1808(c). | |
| 5121(d) ..... | 49 App.:1808(d). | Jan. 3, 1975, Pub. L. 93–633, § 109(d), 88 Stat. 2159; Oct. 30, 1984, Pub. L. 98–559, § 1(a), 98 Stat. 2907; Nov. 16, 1990, Pub. L. 101–615, § 11, 104 Stat. 3259. |
| 5121(e) ..... | 49 App.:1808(e). | Jan. 3, 1975, Pub. L. 93–633, § 109(e), 88 Stat. 2159; Oct. 30, 1984, Pub. L. 98–559, § 1(b), 98 Stat. 2907. |

In subsection (a), the words ''to the extent necessary . . . his responsibilities under'' and ''relevant'' are omitted as surplus. The word ''documents'' is omitted as being included in ''records''. The words ''directly or indirectly'' are omitted as surplus. The word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), the words ''requirements under'' are omitted as surplus. In clause (1), the words ''establish and'' are omitted as surplus. The word ''requires'' is substituted for ''prescribe'' for clarity and consistency.

In subsection (c)(1), before clause (A), the words ''enter upon . . . and examine'' and ''of persons to the extent such records and properties'' are omitted as surplus. In clause (B), the words ''or shipment by any person'' are omitted as surplus.

In subsection (d)(1), before clause (A), the words ''establish and'' are omitted as executed. In clause (B), the words ''capable of'' are substituted for ''so as to be able to'' to eliminate unnecessary words. The words ''technical and other'' and ''of communities'' are omitted as surplus. The words ''and employees'' are added for consistency in the revised title and with other titles of the Code. In clause (C), the words ''in order'' and ''to be able to'' are omitted as surplus.

In subsection (e), before clause (1), the words ''prepare and'' and ''comprehensive'' are omitted as surplus. In clause (1), the word ''thorough'' is omitted as surplus. In clause (2), the words ''in effect'' are omitted as surplus. In clause (3), the words ''granted or maintained'' are omitted as surplus. In clause (6), the words ''additional . . . as are deemed necessary or'' are omitted as surplus.

REFERENCES IN TEXT

The date of enactment of the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005, referred to in subsec. (e), is the date of enactment of title VII of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2008—Subsec. (h)(2). Pub. L. 110–244, § 302(e)(1), substituted ''special permits'' for ''exemptions''.

Subsec. (h)(3). Pub. L. 110–244, § 302(e)(2), substituted ''special permit'' for ''exemption''.

2005—Subsec. (a). Pub. L. 109–59, § 7126, substituted ''Secretary may investigate'' for ''Secretary of Transportation may investigate''.

Pub. L. 109–59, § 7118(a), inserted ''conduct tests,'' after ''investigate,'' and substituted ''Except as provided in subsections (c) and (d), after'' for ''After'' and ''regulation prescribed, or an order, special permit, or approval issued,'' for ''regulation prescribed''.

Subsec. (b)(1). Pub. L. 109–59, § 7118(b)(1), inserted ''and property'' after ''records''.

Subsec. (b)(2). Pub. L. 109–59, § 7118(b)(2), inserted ''property,'' after ''records,'' and ''for inspection'' after ''available'' and substituted ''undertakes an investigation or makes a request'' for ''requests''.

Subsec. (c). Pub. L. 109–59, § 7118(c), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows:

''(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

''(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a packaging or a container for use by a person in transporting hazardous material in commerce; or

''(B) the transportation of hazardous material in commerce.

''(2) An officer, employee, or agent under this subsection shall display proper credentials when requested.''

Subsecs. (d), (e). Pub. L. 109–59, § 7118(d), added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated (f) and (h), respectively.

Subsec. (f). Pub. L. 109–59, § 7118(d)(1), redesignated subsec. (d) as (f).

Subsec. (g). Pub. L. 109–59, § 7118(e), added subsec. (g).

Subsec. (h). Pub. L. 109–59, § 7118(f)(1), substituted ''transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate'' for ''submit to the President for transmittal to the Congress'' in introductory provisions.

Pub. L. 109–59, § 7118(d)(1), redesignated subsec. (e) as (h).

Subsec. (h)(4). Pub. L. 109–59, § 7118(f)(2), inserted ''relating to a function regulated by the Secretary under section 5103(b)(1)'' after ''activities''.

1994—Subsec. (c)(1)(A). Pub. L. 103–311, § 117(a)(2), substituted ''a packaging or a'' for ''a package or''.

Subsec. (e). Pub. L. 103–311, § 108, substituted ''Report'' for ''Annual Report'' in heading and substituted

first sentence for former first sentence which read as follows: ''The Secretary shall submit to the President, for submission to Congress, not later than June 15th of each year, a report about the transportation of hazardous material during the prior calendar year.''

TOLL FREE NUMBER FOR REPORTING

Section 116 of Pub. L. 103–311 provided that: ''The Secretary of Transportation shall designate a toll free telephone number for transporters of hazardous materials and other individuals to report to the Secretary possible violations of chapter 51 of title 49, United States Code, or any order or regulation issued under that chapter.''

## § 5122. Enforcement

(a) GENERAL.—At the request of the Secretary, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order, special permit, or approval issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123.

(b) IMMINENT HAZARDS.—(1) If the Secretary has reason to believe that an imminent hazard exists, the Secretary may bring a civil action in an appropriate district court of the United States—

(A) to suspend or restrict the transportation of the hazardous material responsible for the hazard; or

(B) to eliminate or mitigate the hazard.

(2) On request of the Secretary, the Attorney General shall bring an action under paragraph (1) of this subsection.

(c) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or individual in charge of a vessel is liable for a civil penalty under section 5123 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or individual in charge may be subject to such a civil penalty or fine, the Secretary of Homeland Security, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 60105 of title 46.

(2) Clearance refused or revoked under this subsection may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 780; Pub. L. 104–324, title III, § 312(a), Oct. 19, 1996, 110 Stat. 3920; Pub. L. 109–59, title VII, §§ 7119, 7126, Aug. 10, 2005, 119 Stat. 1905, 1909; Pub. L. 109–304, § 17(h)(1), Oct. 6, 2006, 120 Stat. 1709.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5122(a) ..... | 49 App.:1808(a) (last sentence words after semicolon). | Jan. 3, 1975, Pub. L. 93–633, §§ 109(a) (last sentence words after semicolon), 111(a), 88 Stat. 2159, 2161. |
| | 49 App.:1810(a). | |
| 5122(b) ..... | 49 App.:1810(b). | Jan. 3, 1975, Pub. L. 93–633, § 111(b), 88 Stat. 2161; Nov. 16, 1990, Pub. L. 101–615, § 3(b), 104 Stat. 3247. |

In this section, the words ''bring a civil action'' are substituted for ''bring an action in'' in 49 App.:1810 and ''petition . . . for an order . . . for such other order'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the text of 49 App.:1808(a) (last sentence words after semicolon) and the words ''for equitable relief'' in 49 App.:1810(a) are omitted as surplus. The words ''enforce this chapter'' are substituted for ''redress a violation by any person of a provision of this chapter'' to eliminate unnecessary words. The words ''regulation prescribed or order issued'' are substituted for ''order or regulation issued'' for consistency in the revised title and with other titles of the Code. The words ''The court may award appropriate relief, including'' are substituted for ''Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and'' to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words ''as is necessary'' are omitted as surplus.

AMENDMENTS

2006—Subsec. (c)(1). Pub. L. 109–304 substituted ''Secretary of Homeland Security'' and ''section 60105 of title 46'' for ''Secretary of the Treasury'' and ''section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)'', respectively.

2005—Subsec. (a). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Pub. L. 109–59, § 7119(a), substituted ''this chapter or a regulation prescribed or order, special permit, or approval'' for ''this chapter or a regulation prescribed or order'' and ''The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123'' for ''The court may award appropriate relief, including punitive damages''.

Subsec. (b)(1)(B). Pub. L. 109–59, § 7119(b), substituted ''or mitigate the hazard'' for ''or ameliorate the hazard''.

1996—Subsec. (c). Pub. L. 104–324 added subsec. (c).

## § 5123. Civil penalty

(a) PENALTY.—(1) A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $50,000 for each violation. A person acts knowingly when—

(A) the person has actual knowledge of the facts giving rise to the violation; or

(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

(2) If the Secretary finds that a violation under paragraph (1) results in death, serious illness, or severe injury to any person or substantial destruction of property, the Secretary may increase the amount of the civil penalty for such violation to not more than $100,000.

(3) If the violation is related to training, paragraph (1) shall be applied by substituting ''$450'' for ''$250''.

(4) A separate violation occurs for each day the violation, committed by a person that transports or causes to be transported hazardous material, continues.

(b) HEARING REQUIREMENT.—The Secretary may find that a person has violated this chapter or a regulation prescribed or order, special per-

mit, or approval issued under this chapter only after notice and an opportunity for a hearing. The Secretary shall impose a penalty under this section by giving the person written notice of the amount of the penalty.

(c) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, 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 to do business; and

(3) other matters that justice requires.

(d) CIVIL ACTIONS TO COLLECT.—The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty under this section and any accrued interest on the civil penalty as calculated in accordance with section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.

(e) COMPROMISE.—The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General.

(f) SETOFF.—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.

(g) DEPOSITING AMOUNTS COLLECTED.—Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 780; Pub. L. 109–59, title VII, §§ 7120(a)–(c), 7126, Aug. 10, 2005, 119 Stat. 1905, 1906, 1909.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5123(a)(1) .... | 49 App.:1809(a)(1) (1st sentence less 3d–16th words, 2d sentence words before 4th comma, 3d sentence). | Jan. 3, 1975, Pub. L. 93–633, § 110(a)(1), 88 Stat. 2160; Nov. 16, 1990, Pub. L. 101–615, § 12(a)(1), 104 Stat. 3259. |
| | 49 App.:1809(a)(3). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 110(a)(3); added Nov. 16, 1990, Pub. L. 101–615, § 12(a)(2), 104 Stat. 3259. |
| 5123(a)(2) .... | 49 App.:1809(a)(1) (2d sentence words after 4th comma). | |
| 5123(b) ..... | 49 App.:1809(a)(1) (1st sentence 3d–16th words, 4th sentence). | |
| 5123(c) ..... | 49 App.:1809(a)(1) (last sentence). | |
| 5123(d), (e) | 49 App.:1809(a)(2) (1st sentence). | Jan. 3, 1975, Pub. L. 93–633, § 110(a)(2), 88 Stat. 2160. |
| 5123(f) ..... | 49 App.:1809(a)(2) (2d sentence). | |
| 5123(g) ..... | 49 App.:1809(a)(2) (last sentence). | |

In subsection (a)(1), before clause (1), the words ''A person that knowingly violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $25,000 for each violation'' are substituted for 49 App.:1809(a)(1) (1st sentence less 3d–16th words, 2d sentence words before 4th comma, 3d sentence) to eliminate unnecessary words.

In subsection (b), the word ''impose'' is substituted for ''assessed'' for consistency.

In subsection (c)(2), the words ''the violator'' are substituted for ''the person found to have committed such violation'' to eliminate unnecessary words.

In subsection (f), the words ''imposed or compromised'' are substituted for ''of such penalty, when finally determined (or agreed upon in compromise)'' to eliminate unnecessary words and for consistency. The words ''liable for the penalty'' are substituted for ''charged'' for clarity.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–59, § 7120(a)(1), in introductory provisions substituted ''regulation, order, special permit, or approval issued'' for ''regulation prescribed or order issued'' and ''$50,000'' for ''$25,000''.

Subsec. (a)(2) to (4). Pub. L. 109–59, § 7120(a)(2), (3), added pars. (2) and (3) and redesignated former par. (2) as (4).

Subsec. (b). Pub. L. 109–59, § 7126, substituted ''Secretary may'' for ''Secretary of Transportation may''.

Pub. L. 109–59, § 7120(b), substituted ''regulation prescribed or order, special permit, or approval issued'' for ''regulation prescribed''.

Subsec. (d). Pub. L. 109–59, § 7120(c), substituted ''section and any accrued interest on the civil penalty as calculated in accordance with section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.'' for ''section.''

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–59, title VII, § 7120(d), Aug. 10, 2005, 119 Stat. 1906, provided that:

''(1) HEARING REQUIREMENT.—The amendment made by subsection (b) [amending this section] shall take effect on the date of enactment of this Act [Aug. 10, 2005], and shall apply with respect to violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after that date.

''(2) CIVIL ACTIONS TO COLLECT.—The amendment made by subsection (c) [amending this section] shall apply with respect to civil penalties imposed on violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after the date of enactment of this Act [Aug. 10, 2005].''

## § 5124. Criminal penalty

(a) IN GENERAL.—A person knowingly violating section 5104(b) or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both; except that the maximum amount of imprisonment shall be 10 years in any case in which the violation involves the release of a hazardous material that results in death or bodily injury to any person.

(b) KNOWING VIOLATIONS.—For purposes of this section—

(1) a person acts knowingly when—

(A) the person has actual knowledge of the facts giving rise to the violation; or

(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge; and

(2) knowledge of the existence of a statutory provision, or a regulation or a requirement required by the Secretary, is not an element of an offense under this section.

(c) WILLFUL VIOLATIONS.—For purposes of this section, a person acts willfully when—

(1) the person has knowledge of the facts giving rise to the violation; and

(2) the person has knowledge that the conduct was unlawful.

(d) RECKLESS VIOLATIONS.—For purposes of this section, a person acts recklessly when the person displays a deliberate indifference or conscious disregard to the consequences of that person's conduct.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 781; Pub. L. 109–59, title VII, § 7121, Aug. 10, 2005, 119 Stat. 1906.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5124 ..... | 49 App.:1809(b). | Jan. 3, 1975, Pub. L. 93–633, § 110(b), 88 Stat. 2161; restated Nov. 16, 1990, Pub. L. 101–615, § 12(b), 104 Stat. 3259. |

AMENDMENTS

2005—Pub. L. 109–59 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.''

## § 5125. Preemption

(a) GENERAL.—Except as provided in subsections (b), (c), and (e) of this section and unless authorized by another law of the United States, a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

(1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security is not possible; or

(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.

(b) SUBSTANTIVE DIFFERENCES.—(1) Except as provided in subsection (c) of this section and unless authorized by another law of the United States, a law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe about any of the following subjects, that is not substantively the same as a provision of this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security, is preempted:

(A) the designation, description, and classification of hazardous material.

(B) the packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(E) the designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

(2) If the Secretary prescribes or has prescribed under section 5103(b), 5104, 5110, or 5112 of this title or prior comparable provision of law a regulation or standard related to a subject referred to in paragraph (1) of this subsection, a State, political subdivision of a State, or Indian tribe may prescribe, issue, maintain, and enforce only a law, regulation, standard, or order about the subject that is substantively the same as a provision of this chapter or a regulation prescribed or order issued under this chapter. The Secretary shall decide on and publish in the Federal Register the effective date of section 5103(b) of this title for any regulation or standard about any of those subjects that the Secretary prescribes. The effective date may not be earlier than 90 days after the Secretary prescribes the regulation or standard nor later than the last day of the 2-year period beginning on the date the Secretary prescribes the regulation or standard.

(3) If a State, political subdivision of a State, or Indian tribe imposes a fine or penalty the Secretary decides is appropriate for a violation related to a subject referred to in paragraph (1) of this subsection, an additional fine or penalty may not be imposed by any other authority.

(c) COMPLIANCE WITH SECTION 5112(b) REGULATIONS.—(1) Except as provided in paragraph (2) of this subsection, after the last day of the 2-year period beginning on the date a regulation is prescribed under section 5112(b) of this title, a State or Indian tribe may establish, maintain, or enforce a highway routing designation over which hazardous material may or may not be transported by motor vehicles, or a limitation or requirement related to highway routing, only if the designation, limitation, or requirement complies with section 5112(b).

(2)(A) A highway routing designation, limitation, or requirement established before the date a regulation is prescribed under section 5112(b) of this title does not have to comply with section 5112(b)(1)(B), (C), and (F).

(B) This subsection and section 5112 of this title do not require a State or Indian tribe to comply with section 5112(b)(1)(I) if the highway routing designation, limitation, or requirement was established before November 16, 1990.

(C) The Secretary may allow a highway routing designation, limitation, or requirement to continue in effect until a dispute related to the designation, limitation, or requirement is resolved under section 5112(d) of this title.

(d) DECISIONS ON PREEMPTION.—(1) A person (including a State, political subdivision of a State, or Indian tribe) directly affected by a requirement of a State, political subdivision, or tribe may apply to the Secretary, as provided by regulations prescribed by the Secretary, for a decision on whether the requirement is pre-

empted by subsection (a), (b)(1), or (c) of this section or section 5119(f). The Secretary shall publish notice of the application in the Federal Register. The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made. After notice is published, an applicant may not seek judicial relief on the same or substantially the same issue until the Secretary takes final action on the application or until 180 days after the application is filed, whichever occurs first.

(2) After consulting with States, political subdivisions of States, and Indian tribes, the Secretary shall prescribe regulations for carrying out paragraph (1) of this subsection.

(3) Subsection (a) of this section does not prevent a State, political subdivision of a State, or Indian tribe, or another person directly affected by a requirement, from seeking a decision on preemption from a court of competent jurisdiction instead of applying to the Secretary under paragraph (1) of this subsection.

(e) WAIVER OF PREEMPTION.—A State, political subdivision of a State, or Indian tribe may apply to the Secretary for a waiver of preemption of a requirement the State, political subdivision, or tribe acknowledges is preempted by subsection (a), (b)(1), or (c) of this section or section 5119(f). Under a procedure the Secretary prescribes by regulation, the Secretary may waive preemption on deciding the requirement—

(1) provides the public at least as much protection as do requirements of this chapter and regulations prescribed under this chapter; and

(2) is not an unreasonable burden on commerce.

(f) FEES.—(1) A State, political subdivision of a State, or Indian tribe may impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose related to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.

(2) A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall, upon the Secretary's request, report to the Secretary on—

(A) the basis on which the fee is levied upon persons involved in such transportation;

(B) the purposes for which the revenues from the fee are used;

(C) the annual total amount of the revenues collected from the fee; and

(D) such other matters as the Secretary requests.

(g) APPLICATION OF EACH PREEMPTION STANDARD.—Each standard for preemption in subsection (a), (b)(1), or (c), and in section 5119(f), is independent in its application to a requirement of a State, political subdivision of a State, or Indian tribe.

(h) NON-FEDERAL ENFORCEMENT STANDARDS.—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 781; Pub. L. 103–311, title I, §§ 107, 117(a)(2), 120(b), Aug. 26, 1994, 108 Stat. 1674, 1678, 1681; Pub. L. 103–429, § 6(6), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 107–296, title XVII, § 1711(b), Nov. 25, 2002, 116 Stat. 2320; Pub. L. 109–59, title VII, §§ 7122, 7123(a), 7126, Aug. 10, 2005, 119 Stat. 1907, 1909; Pub. L. 110–244, title III, § 302(c), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5125(a) ..... | 49 App.:1811(a). | Jan. 3, 1975, Pub. L. 93–633, § 112(a)–(e), 88 Stat. 2161; Nov. 30, 1979, Pub. L. 96–129, § 216(a), 93 Stat. 1015; restated Nov. 16, 1990, Pub. L. 101–615, § 13, 104 Stat. 3259. |
| 5125(b) ..... | 49 App.:1804(a)(4), (5). | Jan. 3, 1975, Pub. L. 93–633, § 105(a)(4), (5), (b)(4), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615, § 4, 104 Stat. 3247, 3250. |
| 5125(c) ..... | 49 App.:1804(b)(4). | |
| 5125(d) ..... | 49 App.:1811(c). | |
| 5125(e) ..... | 49 App.:1811(d). | |
| 5125(f) ..... | 49 App.:1811(e). | |
| 5125(g) ..... | 49 App.:1811(b). | |

In subsections (a) and (b)(1), the words ''and unless authorized by Federal law'' are omitted as surplus.

In subsection (a), before clause (1), the reference to subsections (b) and (c) is substituted for 49 App.:1811(a)(3) for clarity.

In subsection (b)(1), before clause (A), the words ''ruling, provision'' are omitted as surplus.

In subsection (b)(3), the word ''imposes'' is substituted for ''assesses'' for consistency.

In subsection (c)(1), the words ''the procedural requirements of'' and ''the substantive requirements of'' are omitted as surplus.

In subsection (c)(2)(A), the words ''procedural requirements of the Federal standards established pursuant to'' are omitted as surplus.

In subsection (f), the words ''may bring a civil action for judicial review'' are substituted for ''may seek judicial review . . . only by filing a petition'' for consistency in the revised title.

PUB. L. 103–429

This amends 49:5125(a) and (b)(1) to clarify the restatement of 49 App.:1804(a)(4) and 1811(a) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 781).

AMENDMENTS

2008—Subsec. (d)(1). Pub. L. 110–244, § 302(c)(1), substituted ''5119(f)'' for ''5119(e)''.

Subsec. (e). Pub. L. 110–244, § 302(c)(2), substituted ''5119(f)'' for ''5119(b)'' in introductory provisions.

Subsec. (g). Pub. L. 110–244, § 302(c)(2), (3), substituted ''(a), (b)(1), or (c)'' for ''(b), (c)(1), or (d)'' and ''5119(f)'' for ''5119(b)''.

2005—Subsec. (b)(1)(E). Pub. L. 109–59, § 7122(a)(1), added subpar. (E) and struck out former subpar. (E) which read as follows: ''the design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.''

Subsec. (b)(2). Pub. L. 109–59, § 7126, substituted ''If the Secretary'' for ''If the Secretary of Transportation''.

Pub. L. 109–59, § 7122(a)(2), substituted ''subjects that the Secretary prescribes. The'' for ''subjects that the Secretary prescribes after November 16, 1990. However, the''.

Subsec. (d)(1). Pub. L. 109–59, § 7122(b), inserted ''or section 5119(e)'' before period at end of first sentence.

Subsec. (e). Pub. L. 109–59, § 7122(c), inserted ''or section 5119(b)'' before period at end of first sentence.

Subsec. (f). Pub. L. 109–59, § 7123(a), redesignated subsec. (g) as (f), realigned margins, and struck out heading and text of former subsec. (f). Text read as follows: ''A party to a proceeding under subsection (d) or (e) of this section may bring a civil action in an appropriate district court of the United States for judicial review of the decision of the Secretary not later than 60 days after the decision becomes final.''

Subsec. (g). Pub. L. 109–59, § 7123(a)(2), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsecs. (h), (i). Pub. L. 109–59, § 7123(a)(2), redesignated subsecs. (h) and (i) as (g) and (h), respectively.

Pub. L. 109–59, § 7122(d), added subsecs. (h) and (i).

2002—Subsecs. (a), (b)(1). Pub. L. 107–296 substituted ''chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security'' for ''chapter or a regulation prescribed under this chapter'' wherever appearing.

1994—Subsecs. (a), (b)(1). Pub. L. 103–429 inserted ''and unless authorized by another law of the United States'' after ''section'' in introductory provisions.

Subsec. (b)(1)(E). Pub. L. 103–311, § 117(a)(2), substituted ''a packaging or a'' for ''a package or''.

Subsec. (d). Pub. L. 103–311, § 120(b), inserted after second sentence ''The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made.''

Subsec. (g). Pub. L. 103–311, § 107, designated existing provisions as par. (1) and added par. (2).

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 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.

## § 5126. Relationship to other laws

(a) CONTRACTS.—A person under contract with a department, agency, or instrumentality of the United States Government that transports hazardous material, or causes hazardous material to be transported, or designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented as qualified for use in transporting hazardous material shall comply with this chapter, regulations prescribed and orders issued under this chapter, and all other requirements of the Government, State and local governments, and Indian tribes (except a requirement preempted by a law of the United States) in the same way and to the same extent that any person engaging in that transportation, designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing that is in or affects commerce must comply with the provision, regulation, order, or requirement.

(b) NONAPPLICATION.—This chapter does not apply to—

(1) a pipeline subject to regulation under chapter 601 of this title; or

(2) any matter that is subject to the postal laws and regulations of the United States under this chapter or title 18 or 39.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 783; Pub. L. 103–311, title I, § 117(a)(2), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 109–59, title VII, § 7124, Aug. 10, 2005, 119 Stat. 1908; Pub. L. 110–244, title III, § 302(d), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5126(a) ..... | 49 App.:1818. | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 120; added Nov. 16, 1990, Pub. L. 101–615, § 20, 104 Stat. 3270. |
| 5126(b) ..... | 49 App.:1811(f). | Jan. 3, 1975, Pub. L. 93–633, § 112(f), 88 Stat. 2161; Nov. 30, 1979, Pub. L. 96–129, § 216(a), 93 Stat. 1015; restated Nov. 16, 1990, Pub. L. 101–615, § 13, 104 Stat. 3260. |

In subsection (a), the word ''manufactures'' is substituted for ''manufacturers'' to correct an error in the source provisions. The words ''of the executive, legislative, or judicial branch'', ''be subject to and'', ''substantive and procedural'', and ''this chapter or any other'' are omitted as surplus.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–244 amended Pub. L. 109–59. See 2005 Amendment note below.

2005—Subsec. (a). Pub. L. 109–59, § 7124(4), substituted ''designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing'' for ''manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing''.

Pub. L. 109–59, § 7124(3), as amended by Pub. L. 110–244, substituted ''shall comply with this chapter'' for ''must comply with this chapter''.

Pub. L. 109–59, § 7124(1), (2), substituted ''transports hazardous material, or causes hazardous material to be transported,'' for ''transports or causes to be transported hazardous material,'' and ''designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented'' for ''manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a packaging or a container that the person represents, marks, certifies, or sells''.

1994—Subsec. (a). Pub. L. 103–311 substituted ''a packaging or a'' for ''a package or''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of Title 23, Highways.

## § 5127. Judicial review

(a) FILING AND VENUE.—Except as provided in section 20114(c), a person adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its

principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a), the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5, to affirm or set aside any part of the Secretary's final action and may order the Secretary to conduct further proceedings.

(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.

(Added Pub. L. 109–59, title VII, § 7123(b), Aug. 10, 2005, 119 Stat. 1907.)

PRIOR PROVISIONS

A prior section 5127 was renumbered section 5128 of this title.

### § 5128. Authorization of appropriations

(a) IN GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119), the following amounts are authorized to be appropriated to the Secretary:

(1) For fiscal year 2005, $24,940,000.

(2) For fiscal year 2006, $29,000,000.

(3) For fiscal year 2007, $30,000,000.

(4) For fiscal year 2008, $30,000,000.

(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), for each of fiscal years 2005 through 2008 the following:

(1) To carry out section 5115, $200,000.

(2) To carry out sections 5116(a) and (b), $21,800,000 to be allocated as follows:

(A) $5,000,000 to carry out section 5116(a).

(B) $7,800,000 to carry out section 5116(b).

(C) Of the amount provided for by this paragraph for a fiscal year in excess of the suballocations in subparagraphs (A) and (B)—

(i) 35 percent shall be used to carry out section 5116(a); and

(ii) 65 percent shall be used to carry out section 5116(b),

except that the Secretary may increase the proportion to carry out section 5116(b) and decrease the proportion to carry out section 5116(a) if the Secretary determines that such reallocation is appropriate to carry out the intended uses of these funds as described in the applications submitted by States and Indian tribes.

(3) To carry out section 5116(f), $150,000.

(4) To publish and distribute the Emergency Response Guidebook under section 5116(i)(3), $625,000.

(5) To carry out section 5116(j), $1,000,000.

(c) HAZMAT TRAINING GRANTS.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), to carry out section 5107(e) $4,000,000 for each of fiscal years 2005 through 2008.

(d) ISSUANCE OF HAZMAT LICENSES.—There are authorized to be appropriated for the Department of Transportation such amounts as may be necessary to carry out section 5103a.

(e) CREDITS TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or under this section remain available until expended.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 783, § 5127; Pub. L. 103–311, title I, §§ 103, 119(b), (c)(4), Aug. 26, 1994, 108 Stat. 1673, 1680; renumbered § 5128 and amended Pub. L. 109–59, title VII, §§ 7123(b), 7125, Aug. 10, 2005, 119 Stat. 1907, 1908; Pub. L. 110–244, title III, § 302(f), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5127(a) ..... | 49 App.:1812(a). | Jan. 3, 1975, Pub. L. 93–633, § 115, 88 Stat. 2164; July 19, 1975, Pub. L. 94–56, § 4, 89 Stat. 264; Oct. 11, 1976, Pub. L. 94–474, § 3, 90 Stat. 2068; Sept. 30, 1978, Pub. L. 95–403, 92 Stat. 863; Oct. 30, 1984, Pub. L. 98–559, § 2, 98 Stat. 2907; restated Nov. 16, 1990, Pub. L. 101–615, § 14, 104 Stat. 3260; Oct. 24, 1992, Pub. L. 102–508, § 504, 106 Stat. 3311. |
| 5127(b) ..... | 49 App.:1816(d). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 118(d); added Nov. 16, 1990, Pub. L. 101–615, § 18, 104 Stat. 3269; Oct. 24, 1992, Pub. L. 102–508, § 506, 106 Stat. 3312. |
| 5127(c) ..... | 49 App.:1815(i)(3). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 117A(i); added Nov. 16, 1990, Pub. L. 101–615, § 17, 104 Stat. 3268. |
| 5127(d) ..... | 49 App.:1815(i)(1), (2), (4). | |
| 5127(e) ..... | 49 App.:1819(h) (1st sentence). | Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 121(h); added Nov. 16, 1990, Pub. L. 101–615, § 22, 104 Stat. 3272. |
| 5127(f) ..... | 49 App.:1812(b). | |
| 5127(g) ..... | 49 App.:1815(i)(5). 49 App.:1819(h) (last sentence). | |

In the section, references to fiscal years 1991 and 1992 are omitted as obsolete.

In subsections (b), (c)(1), and (d), the words ''amounts in'' are omitted as surplus.

In subsection (c), the text of 49 App.:1815(i)(3)(A) is omitted as obsolete.

In subsection (c)(2), the words ''relating to dissemination of the curriculum'' are omitted as surplus.

AMENDMENTS

2008—Pub. L. 110–244 substituted ''Authorization'' for ''Authorizations'' in section catchline.

2005—Pub. L. 109–59, § 7125, substituted ''Authorizations'' for ''Authorization'' in section catchline and amended text generally, substituting provisions relat-

ing to authorization of appropriations for fiscal years 2005 to 2008, consisting of subsecs. (a) to (f), for provisions relating to authorization of appropriations for fiscal years 1993 to 1998, consisting of subsecs. (a) to (g).

Pub. L. 109–59, § 7123(b), renumbered section 5127 of this title as this section.

1994—Subsec. (a). Pub. L. 103–311, § 103, substituted ''fiscal year 1993, $18,000,000 for fiscal year 1994, $18,540,000 for fiscal year 1995, $19,100,000 for fiscal year 1996, and $19,670,000 for fiscal year 1997'' for ''the fiscal year ending September 30, 1993,''.

Subsec. (b). Pub. L. 103–311, § 119(c)(4), amended subsec. (b)(1) generally. Prior to amendment, subsec. (b)(1) read as follows:

''(b) HAZMAT EMPLOYEE TRAINING.—(1) Not more than $250,000 is available to the Director of the National Institute of Environmental Health Sciences from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5107(e) of this title.''

Pub. L. 103–311, § 119(b), designated existing provisions as par. (1) and added par. (2).

## CHAPTER 53—PUBLIC TRANSPORTATION

Sec.
5301. Policies, findings, and purposes.
5302. Definitions.
5303. Metropolitan transportation planning.
5304. Statewide transportation planning.
5305. Planning programs.
5306. Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations.
5307. Urbanized area formula grants.
5308. Clean fuels grant program.
5309. Capital investment grants.
5310. Formula grants for special needs of elderly individuals and individuals with disabilities.
5311. Formula grants for other than urbanized areas.
5312. Research, development, demonstration, and deployment projects.
5313. Transit cooperative research program.
5314. National research programs.
5315. National transit institute.
5316. Job access and reverse commute formula grants.
5317. New freedom program.
5318. Bus testing facility.
5319. Bicycle facilities.
5320. Alternative transportation in parks and public lands.
5321. Crime prevention and security.
5322. Human resource programs.
5323. General provisions on assistance.
5324. Special provisions for capital projects.
5325. Contract requirements.
[5326. Repealed.]
5327. Project management oversight.
5328. Project review.
5329. Investigations of safety hazards and security risks.
5330. State safety oversight.
5331. Alcohol and controlled substances testing.
5332. Nondiscrimination.
5333. Labor standards.
5334. Administrative provisions.
5335. National transit database.
5336. Apportionment of appropriations for formula grants.
5337. Apportionment based on fixed guideway factors.
5338. Authorizations.
5339. Alternatives analysis program.
5340. Apportionments based on growing States and high density States formula factors.

AMENDMENTS

2005—Pub. L. 109–59, title III, §§ 3002(b)(1), 3005(c), 3006(c), 3007(b), 3010(b), 3011(b), 3012(c), 3013(i), 3014(e)(2), 3015(b)(2), 3016(d), 3018(b), 3019(b), 3021(b), 3024(b), 3025(b), 3028(d), 3029(b), 3033(b), 3035(b), 3038(b), Aug. 10, 2005, 119 Stat. 1544, 1559, 1566, 1568, 1573, 1588, 1593, 1596, 1597, 1600, 1605, 1608, 1614, 1620, 1622, 1625, 1627, 1629, 1638, substituted ''PUBLIC'' for ''MASS'' in chapter heading, substituted ''transportation planning'' for ''planning'' in item 5303, ''Statewide transportation planning'' for ''Transportation improvement program'' in item 5304, ''Planning programs'' for ''Transportation management areas'' in item 5305, ''grant program'' for ''formula grant program'' in item 5308, ''grants'' for ''grants and loans'' in item 5309, ''Formula grants'' for ''Formula grants and loans'' in item 5310, ''grants'' for ''grant'' in item 5311, ''deployment'' for ''training'' in item 5312, ''Transit cooperative research program'' for ''State planning and research programs'' in item 5313, ''research programs'' for ''planning and research programs'' in item 5314, ''Alternative transportation in parks and public lands'' for ''Suspended light rail system technology pilot project'' in item 5320, ''Special provisions for capital projects'' for ''Limitations on discretionary and special needs grants and loans'' in item 5324, ''Investigations of safety hazards and security risks'' for ''Investigation of safety hazards'' in item 5329, ''State safety oversight'' for ''Withholding amounts for noncompliance with safety requirements'' in item 5330, ''National transit database'' for ''Reports and audits'' in item 5335, and ''Apportionment based on fixed guideway factors'' for ''Apportionment of appropriations for fixed guideway modernization'' in item 5337, added items 5316, 5317, and 5340, and struck out item 5326 ''Special procurements''.

Pub. L. 109–59, title III, § 3037(b), Aug. 10, 2005, 119 Stat. 1636, which directed amendment of the analysis for chapter 53 by striking the item relating to section 5339 and inserting a new item 5339, was executed by adding the new item 5339 after item 5338 to reflect the probable itent of Congress, because no item for section 5339 had been enacted.

1998—Pub. L. 105–178, title III, §§ 3007(a)(2), 3008(b), 3009(b), 3014(b), 3017(b), 3025(b)(2), title V, § 5110(c), June 9, 1998, 112 Stat. 347, 352, 359, 361, 365, 444, substituted ''Urbanized area formula grants'' for ''Block grants'' in item 5307, ''Clean fuels formula grant program'' for ''Mass Transit Account block grants'' in item 5308, ''Capital investment'' for ''Discretionary'' in item 5309, ''Formula grant'' for ''Financial assistance'' in item 5311, and ''transit'' for ''mass transportation'' in item 5315, struck out items 5316 ''University research institutes'' and 5317 ''Transportation centers'', and inserted ''provisions'' after ''Administrative'' in item 5334.

Pub. L. 105–178, title III, § 3013(b), June 9, 1998, 112 Stat. 359, which directed insertion of ''formula'' before ''grants'' in item 5310, was executed by substituting ''Formula grants'' for ''Grants'' to reflect the probable intent of Congress.

Pub. L. 105–178, title III, § 3027(d), as added by Pub. L. 105–206, title IX, § 9009(*o*)(2), July 22, 1998, 112 Stat. 858, substituted ''formula grants'' for ''block grants'' in item 5336.

### § 5301. Policies, findings, and purposes

(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the interest of the United States, including its economic interest, to foster the development and revitalization of public transportation systems that—

(1) maximize the safe, secure, and efficient mobility of individuals;

(2) minimize environmental impacts; and

(3) minimize transportation-related fuel consumption and reliance on foreign oil.

(b) GENERAL FINDINGS.—Congress finds that—

(1) more than two-thirds of the population of the United States is located in rapidly expanding urbanized areas that generally cross the

boundary lines of local jurisdictions and often extend into at least 2 States;

(2) the welfare and vitality of urban areas, the satisfactory movement of people and goods within those areas, and the effectiveness of programs aided by the United States Government are jeopardized by deteriorating or inadequate urban transportation service and facilities, the intensification of traffic congestion, and the lack of coordinated, comprehensive, and continuing development planning;

(3) transportation is the lifeblood of an urbanized society, and the health and welfare of an urbanized society depend on providing efficient, economical, and convenient transportation in and between urban areas;

(4) for many years the public transportation industry capably and profitably satisfied the transportation needs of the urban areas of the United States but in the early 1970's continuing even minimal public transportation service in urban areas was threatened because maintaining that transportation service was financially burdensome;

(5) ending that transportation, or the continued increase in its cost to the user, is undesirable and may affect seriously and adversely the welfare of a substantial number of lower income individuals;

(6) some urban areas were developing preliminary plans for, or carrying out, projects in the early 1970's to revitalize their public transportation operations;

(7) significant public transportation improvements are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals in urban and rural areas of the United States;

(8) financial assistance by the Government to develop efficient and coordinated public transportation systems is essential to solve the urban transportation problems referred to in clause (2) of this subsection; and

(9) immediate substantial assistance by the Government is needed to enable public transportation systems to continue providing vital transportation service.

(c) RAPID URBANIZATION AND CONTINUING POPULATION DISPERSAL.—Rapid urbanization and continuing dispersal of the population and activities in urban areas have made the ability of all citizens to move quickly and at a reasonable cost an urgent problem of the Government.

(d) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.—It is the policy of the Government that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation service and facilities. Special efforts shall be made in planning and designing public transportation service and facilities to ensure that public transportation can be used by elderly individuals and individuals with disabilities. All programs of the Government assisting public transportation shall carry out this policy.

(e) PRESERVING THE ENVIRONMENT.—It is the policy of the Government that special effort shall be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and important historical and cultural assets when planning, designing, and carrying out a public transportation capital project with assistance from the Government.

(f) GENERAL PURPOSES.—The purposes of this chapter are—

(1) to assist in developing improved public transportation equipment, facilities, techniques, and methods with the cooperation of both public transportation companies and private companies engaged in public transportation;

(2) to encourage the planning and establishment of areawide public transportation systems needed for economical and desirable urban development with the cooperation of both public transportation companies and private companies engaged in public transportation;

(3) to assist States and local governments and their authorities in financing areawide public transportation systems that are to be operated by public transportation companies or private companies engaged in public transportation as decided by local needs;

(4) to provide financial assistance to State and local governments and their authorities to help carry out national goals related to mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals; and

(5) to establish a partnership that allows a community, with financial assistance from the Government, to satisfy its public transportation requirements.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 785; Pub. L. 109–59, title III, §§ 3002(b)(4), 3003, Aug. 10, 2005, 119 Stat. 1545.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5301(a) ..... | 49 App.:1607(a) (1st sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 8(a) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, § 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, § 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, § 3012, 105 Stat. 2098. |
| 5301(b) ..... | 49 App.:1601(a). | July 9, 1964, Pub. L. 88–365, § 2, 78 Stat. 302; Dec. 18, 1991, Pub. L. 102–240, § 3005, 105 Stat. 2088. |
| | 49 App.:1601b. | Nov. 26, 1974, Pub. L. 93–503, § 2, 88 Stat. 1566. |
| 5301(c) ..... | 49 App.:1601a (1st sentence). | Oct. 15, 1970, Pub. L. 91–453, § 1, 84 Stat. 962. |
| 5301(d) ..... | 49 App.:1612(a). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 16(a); added Oct. 15, 1970, Pub. L. 91–453, § 8, 84 Stat. 967; Dec. 18, 1991, Pub. L. 102–240, § 3021(1), 105 Stat. 2110. |
| 5301(e) ..... | 49 App.:1610(a) (1st sentence). | July 9, 1964, Pub. L. 88–365, § 14(a) (1st sentence), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, § 2(a)(1), 80 Stat. 715; restated Oct. 15, 1970, Pub. L. 91–453, § 6, 84 Stat. 966. |
| 5301(f) ..... | 49 App.:1601(b).<br>49 App.:1601a (last sentence). | |

In subsection (b)(1), the words ''the predominant part'' in 49 App.:1601(a)(1) and ''lives in urban areas'' in 49 App.:1601b(1) are omitted because of the restatement.

The words ''metropolitan and other'' in 49 App.:1601(a)(1) are omitted as surplus.

In subsection (b)(2), the words ''housing, urban renewal, highway, and other'', ''being'', ''the . . . provision of'', and ''transportation and other'' in 49 App.:1601(a)(2) are omitted as surplus.

In subsection (b)(4), the words ''the early 1970's'' are substituted for ''recent years'' in 49 App.:1601b(4), and the words ''minimal mass transportation service'' are substituted for ''this essential public service'', for clarity.

In subsection (b)(5), the word ''particularly'' in 49 App.:1601b(5) is omitted as surplus.

In subsection (b)(6), the words ''were . . . in the early 1970's'' are substituted for ''now'' in 49 App.:1601b(6) for clarity. The words ''engaged in'', ''actually'', and ''comprehensive'' in 49 App.:1601b(6) are omitted as surplus.

In subsection (b)(9), the word ''many'' in 49 App.:1601(b)(7) is omitted as surplus.

In subsection (c), the text of 49 App.:1601a (1st sentence words after semicolon) is omitted as executed.

In subsections (d) and (e), the words ''hereby declared to be'' are omitted as surplus.

In subsection (d), the words ''to ensure that mass transportation can be used by elderly individuals and individuals with disabilities'' are substituted for ''in the planning and design of mass transportation facilities and services so that the availability to elderly persons and persons with disabilities of mass transportation which they can effectively utilize will be assured'' to eliminate unnecessary words. The words ''the field of'' and ''(including the programs under this chapter) . . . contain provisions'' are omitted as surplus.

In subsection (e), the words ''carrying out'' are substituted for ''construction of'', and the word ''capital'' is added, for consistency in the revised chapter. The reference to section 5310 of the revised title is added for clarity because a loan or grant made under section 5310 is deemed to have been made under section 5309.

In subsection (f)(5), the words ''local'' and ''to exercise the initiative necessary'' are omitted as surplus.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59, § 3003(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''It is in the interest of the United States to encourage and promote the development of transportation systems that embrace various modes of transportation and efficiently maximize mobility of individuals and goods in and through urbanized areas and minimize transportation-related fuel consumption and air pollution.''

Subsec. (b)(1). Pub. L. 109–59, § 3003(b), substituted ''two-thirds'' for ''70 percent'' and ''urbanized areas'' for ''urban areas''.

Subsecs. (b)(4), (6) to (9), (d). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' wherever appearing.

Subsec. (e). Pub. L. 109–59, § 3003(c), substituted ''a'' for ''an urban'' and struck out ''under sections 5309 and 5310 of this title'' before period at end.

Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (f)(1). Pub. L. 109–59, § 3003(d)(1), substituted ''public transportation equipment'' for ''mass transportation equipment'' and ''both public transportation companies and private companies engaged in public transportation'' for ''public and private mass transportation companies''.

Subsec. (f)(2). Pub. L. 109–59, § 3003(d)(2), substituted ''public transportation systems'' for ''urban mass transportation systems'' and ''both public transportation companies and private companies engaged in public transportation'' for ''public and private mass transportation companies''.

Subsec. (f)(3). Pub. L. 109–59, § 3003(d)(3), substituted ''public transportation systems'' for ''urban mass transportation systems'' and ''public transportation companies or private companies engaged in public transportation'' for ''public or private mass transportation companies''.

Subsec. (f)(5). Pub. L. 109–59, § 3003(d)(4), substituted ''public'' for ''urban mass''.

CONTRACTING OUT STUDY

Pub. L. 105–178, title III, § 3032, June 9, 1998, 112 Stat. 385, as amended by Pub. L. 105–206, title IX, § 9009(v), July 22, 1998, 112 Stat. 861, provided that:

''(a) STUDY.—Not later than 6 months after the date of enactment of this Act [June 9, 1998], the Secretary [of Transportation] shall enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct a study of the effect of contracting out mass transportation operation and administrative functions on cost, availability and level of service, efficiency, safety, quality of services provided to transit-dependent populations, and employer-employee relations.

''(b) TERMS OF AGREEMENT.—The agreement entered into in subsection (a) shall provide that—

''(1) the Transportation Research Board, in conducting the study, consider the number of grant recipients that have contracted out services, the size of the population served by such grant recipients, the basis for decisions regarding contracting out, and the extent to which contracting out was affected by the integration and coordination of resources of transit agencies and other Federal agencies and programs; and

''(2) the panel conducting the study shall include representatives of transit agencies, employees of transit agencies, private contractors, academic and policy analysts, and other interested persons.

''(c) REPORT.—Not later than 24 months after the date of entry into the agreement under subsection (a), the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results of the study.

''(d) FUNDING.—There shall be available from funds made available under section 5338(f)(2) of title 49, United States Code, to carry out this section $250,000 for fiscal year 1999.

''(e) CONTRACTUAL OBLIGATION.—Entry into an agreement to carry out this section that is financed with amounts made available under subsection (d) is a contractual obligation of the United States to pay the Government's share of the cost of the study.''

COMMUTE-TO-WORK BENEFITS

Pub. L. 102–240, title VIII, § 8004, Dec. 18, 1991, 105 Stat. 2206, provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) current Federal policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits;

''(2) this Federal policy is inconsistent with important national policy objectives, including the need to conserve energy, reduce reliance on energy imports, lessen congestion, and clean our Nation's air;

''(3) commuter transit benefits should be part of a comprehensive solution to national transportation and air pollution problems;

''(4) current Federal law allows employers to provide only up to $21 per month in employee benefits for transit or van pools;

''(5) the current 'cliff provision', which treats an entire commuter transit benefit as taxable income if it exceeds $21 per month, unduly penalizes the most effective employer efforts to change commuter behavior;

''(6) employer-provided commuter transit incentives offer many public benefits, including increased access of low-income persons to good jobs, inexpensive reduction of roadway and parking congestion, and cost-effective incentives for timely arrival at work; and

''(7) legislation to provide equitable treatment of employer-provided commuter transit benefits has

been introduced with bipartisan support in both the Senate and House of Representatives.

''(b) POLICY.—The Congress strongly supports Federal policy that promotes increased use of employer-provided commuter transit benefits. Such a policy 'levels the playing field' between transportation modes and is consistent with important national objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air.''

**§ 5302. Definitions**

(a) IN GENERAL.—Except as otherwise specifically provided, in this chapter, the following definitions apply:

(1) CAPITAL PROJECT.—The term ''capital project'' means a project for—

(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating a bus;

(C) remanufacturing a bus;

(D) overhauling rail rolling stock;

(E) preventive maintenance;

(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

(G) a public transportation improvement that enhances economic development or incorporates private investment, including commercial and residential development, pedestrian and bicycle access to a public transportation facility, construction, renovation, and improvement of intercity bus and intercity rail stations and terminals, and the renovation and improvement of historic transportation facilities, because the improvement enhances the effectiveness of a public transportation project and is related physically or functionally to that public transportation project, or establishes new or enhanced coordination between public transportation and other transportation, and provides a fair share of revenue for public transportation that will be used for public transportation—

(i) including property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, safety and security equipment and facilities (including lighting, surveillance and related intelligent transportation system applications), facilities that incorporate community services such as daycare or health care, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall, except that a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means; and

(ii) excluding construction of a commercial revenue-producing facility (other than an intercity bus station or terminal) or a part of a public facility not related to public transportation;

(H) the introduction of new technology, through innovative and improved products, into public transportation;

(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311;

(J) crime prevention and security—

(i) including—

(I) projects to refine and develop security and emergency response plans;

(II) projects aimed at detecting chemical and biological agents in public transportation;

(III) the conduct of emergency response drills with public transportation agencies and local first response agencies; and

(IV) security training for public transportation employees; but

(ii) excluding all expenses related to operations, other than such expenses incurred in conducting activities described in clauses (i)(III) and (i)(IV);

(K) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter; or

(L) mobility management—

(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

(ii) excluding operating public transportation services.

(2) CHIEF EXECUTIVE OFFICER OF A STATE.—The term ''chief executive officer of a State'' includes the designee of the chief executive officer.

(3) EMERGENCY REGULATION.—The term ''emergency regulation'' means a regulation—

(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(b);[1] and

(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

[1] See References in Text note below.

(i) would injure seriously an important public interest;

(ii) would frustrate substantially legislative policy and intent; or

(iii) would damage seriously a person or class without serving an important public interest.

(4) FIXED GUIDEWAY.—The term ''fixed guideway'' means a public transportation facility—

(A) using and occupying a separate right-of-way or rail for the exclusive use of public transportation and other high occupancy vehicles; or

(B) using a fixed catenary system and a right-of-way usable by other forms of transportation.

(5) INDIVIDUAL WITH A DISABILITY.—The term ''individual with a disability'' means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without special facilities, planning, or design, public transportation service or a public transportation facility.

(6) LOCAL GOVERNMENTAL AUTHORITY.—The term ''local governmental authority'' includes—

(A) a political subdivision of a State;

(B) an authority of at least 1 State or political subdivision of a State;

(C) an Indian tribe; and

(D) a public corporation, board, or commission established under the laws of a State.

(7) MASS TRANSPORTATION.—The term ''mass transportation'' means public transportation.

(8) NET PROJECT COST.—The term ''net project cost'' means the part of a project that reasonably cannot be financed from revenues.

(9) NEW BUS MODEL.—The term ''new bus model'' means a bus model (including a model using alternative fuel)—

(A) that has not been used in public transportation in the United States before the date of production of the model; or

(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

(10) PUBLIC TRANSPORTATION.—The term ''public transportation'' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, sightseeing, or intercity bus transportation or intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity).

(11) REGULATION.—The term ''regulation'' means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

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

(13) STATE.—The term ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(14) TRANSIT.—The term ''transit'' means public transportation.

(15) TRANSIT ENHANCEMENT.—The term ''transit enhancement'' means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

(A) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities);

(B) bus shelters;

(C) landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights;

(D) public art;

(E) pedestrian access and walkways;

(F) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

(G) transit connections to parks within the recipient's transit service area;

(H) signage; and

(I) enhanced access for persons with disabilities to public transportation.

(16) URBAN AREA.—The term ''urban area'' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

(17) URBANIZED AREA.—The term ''urbanized area'' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an ''urbanized area'' by the Secretary of Commerce.

(b) AUTHORITY TO MODIFY ''INDIVIDUAL WITH A DISABILITY''.—The Secretary may by regulation modify the definition of the term ''individual with a disability'' in subsection (a)(5) as it applies to section 5307(d)(1)(D).

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 786; Pub. L. 103–331, title III, § 335A, Sept. 30, 1994, 108 Stat. 2495; Pub. L. 104–50, title III, § 333(a), Nov. 15, 1995, 109 Stat. 457; Pub. L. 104–287, § 6(c), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 105–102, § 3(a), Nov. 20, 1997, 111 Stat. 2214; Pub. L. 105–178, title III, § 3003, June 9, 1998, 112 Stat. 338; Pub. L. 105–206, title IX, § 9009(a), July 22, 1998, 112 Stat. 852; Pub. L. 109–59, title III, §§ 3002(b)(4), 3004, Aug. 10, 2005, 119 Stat. 1545; Pub. L. 110–244, title II, § 201(a), June 6, 2008, 122 Stat. 1609.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5302(a)(1) .... | 49 App.:1608(c)(1). | July 9, 1964, Pub. L. 88–365, §12(c)(1), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Jan. 6, 1983, Pub. L. 97–424, §309(a), 96 Stat. 2151; Apr. 2, 1987, Pub. L. 100–17, §309(a), 101 Stat. 227. |
| | 49 App.:1608(c)(7), (8). | July 9, 1964, Pub. L. 88–365, §12(c)(3)–(9), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Dec. 18, 1991, Pub. L. 102–240, §3016, 105 Stat. 2108. |
| 5302(a)(2) .... | 49 App.:1608(c)(3). | |
| 5302(a)(3) .... | 49 App.:1608(c)(13). | July 9, 1965, Pub. L. 88–365, 78 Stat. 302, §12(c)(12), (13); added Apr. 2, 1987, Pub. L. 100–17, §318(b)(3), 101 Stat. 234. |
| 5302(a)(4) .... | 49 App.:1608(c)(2). | July 9, 1964, Pub. L. 88–365, §12(c)(2), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Jan. 6, 1983, Pub. L. 97–424, §309(b), 96 Stat. 2151. |
| 5302(a)(5) .... | 49 App.:1608(c)(4) (1st sentence). | |
| 5302(a)(6) .... | 49 App.:1608(c)(5). | |
| 5302(a)(7) .... | 49 App.:1608(c)(6). | |
| 5302(a)(8) .... | (no source). | |
| 5302(a)(9) .... | 49 App.:1608(h)(2). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(h)(2); added Apr. 2, 1987, Pub. L. 100–17, §317(a), 101 Stat. 233; Dec. 18, 1991, Pub. L. 102–240, §6021(a), 105 Stat. 2184. |
| | 49 App.:1608 (note). | Apr. 2, 1988, Pub. L. 100–17, §317(b)(4), 101 Stat. 233. |
| 5302(a)(10) .. | 49 App.:1608(c)(12). | |
| 5302(a)(11) .. | 49 App.:1608(c)(9). | |
| 5302(a)(12) .. | 49 App.:1608(c)(10). | July 9, 1964, Pub. L. 88–365, §12(c)(10), (11), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Apr. 2, 1987, Pub. L. 100–17, §318(b)(1), (2), 101 Stat. 234. |
| 5302(a)(13) .. | 49 App.:1608(c)(11). | |
| 5302(b) ..... | 49 App.:1608(c)(4) (last sentence). | |

In this chapter, the words ''local governmental authority'' are substituted for ''local public body'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the text of 49 App.:1608(c)(7) is omitted as surplus. The text of 49 App.:1608(c)(8) is omitted because the complete title of the Secretary of Transportation is used the first time the term appears in a section. In clause (1), before subclause (A), the words ''capital project'' are substituted for ''construction'' for clarity. In subclause (A), the words ''actual'', ''all'', and ''reconstruction'' are omitted as surplus. In subclause (D), the words ''(whether or not such overhaul increases the useful life of the rolling stock)'' are omitted as surplus. In clause (2), the words ''for each of the jurisdictions included in the definition of 'State' '' are omitted as surplus. In clauses (3) and (10), the word ''regulation'' is substituted for ''rule'' for consistency in the revised title and with other titles of the Code and because the terms are synonymous. In clause (3)(B)(iii), the words ''of persons'' are omitted as surplus. In clauses (4) and (5), the word ''mass'' is substituted for ''public'' because of the restatement. In clause (4)(A), the words ''including, but not limited to, fixed rail, automated guideway transit, and exclusive facilities for buses'' are omitted as surplus. In clause (6)(A), the words ''municipalities and other'' are omitted as surplus. In clause (6)(B), the word ''authority'' is substituted for ''public agencies and instrumentalities'' for consistency in the revised title and with other titles of the Code. The word ''municipalities'' is omitted as surplus. In clause (7), the words ''bus, or rail, or other'', ''either publicly or privately owned'', and ''on a . . . basis'' are omitted as surplus. Clause (8) is added for clarity because the term ''net project cost'' has the same meaning throughout this chapter. In clause (11), the words ''the Commonwealths of'' are omitted as surplus. In clause (12), the word ''individuals'' is substituted for ''commuters or others'' to eliminate unnecessary words. In clause (13)(A), the words ''in the case of any such area'' and ''entire'' are omitted as surplus. The words ''Secretary of Commerce'' are substituted for ''Bureau of the Census'' because of 15:1511(e). In clause (13)(B), the words ''so designated by the Bureau of Census'', ''which shall be'', ''responsible'', and ''in cooperation with each other'' are omitted as surplus.

Subsection (b) applies to section 5307(d)(1)(D) of the revised title because of 49 App.:1607a(e)(1), restated as section 5307(n)(2) of the revised title.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(1)(I), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, 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.

Subsec. (b) of section 5334, referred to in subsec. (a)(3)(A), was redesignated subsec. (c) by Pub. L. 109–59, title III, §3023(3), Aug. 10, 2005, 119 Stat. 1626.

AMENDMENTS

2008—Subsec. (a)(10). Pub. L. 110–244 substituted ''charter, sightseeing,'' for ''charter,''.

2005—Subsec. (a). Pub. L. 109–59, §3004(a), substituted ''Except as otherwise specifically provided, in this chapter'' for ''In this chapter'' in introductory provisions.

Subsec. (a)(1)(A), (F). Pub. L. 109–59, §3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (a)(1)(G). Pub. L. 109–59, §3004(b)(1), inserted ''construction, renovation, and improvement of intercity bus and intercity rail stations and terminals,'' after ''public transportation facility,'' in introductory provisions.

Pub. L. 109–59, §3002(b)(4), substituted ''public transportation'' for ''mass transportation'' wherever appearing in introductory provisions.

Subsec. (a)(1)(G)(ii). Pub. L. 109–59, §3004(b)(2), inserted ''(other than an intercity bus station or terminal)'' after ''commercial revenue-producing facility''.

Pub. L. 109–59, §3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (a)(1)(H). Pub. L. 109–59, §3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (a)(1)(J) to (L). Pub. L. 109–59, §3004(b)(3)–(5), added subpars. (J) to (L).

Subsec. (a)(4). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' in introductory provisions and subpar. (A).

Subsec. (a)(5). Pub. L. 109–59, § 3004(c), substituted ''Individual with a disability'' for ''Handicapped individual'' in heading and ''individual with a disability'' for ''handicapped individual'' in text.

Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' in two places.

Subsec. (a)(7). Pub. L. 109–59, § 3004(d), amended heading and text of par. (7) generally. Prior to amendment, text read as follows: ''The term 'mass transportation' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation.''

Subsec. (a)(9). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' in subpars. (A) and (B).

Subsec. (a)(10). Pub. L. 109–59, § 3004(e), amended heading and text of par. (10) generally. Prior to amendment, text read as follows: ''The term 'public transportation' means mass transportation.''

Subsec. (a)(14) to (16). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' wherever appearing.

Subsec. (a)(17). Pub. L. 109–59, § 3004(f), reenacted heading without change and amended text of par. (17) generally. Prior to amendment, text read as follows: ''The term 'urbanized area' means an area—

''(A) encompassing at least an urbanized area within a State that the Secretary of Commerce designates; and

''(B) designated as an urbanized area within boundaries fixed by State and local officials and approved by the Secretary.''

Subsec. (b). Pub. L. 109–59, § 3004(g), substituted ''Individual With a Disability'' for ''Handicapped Individual'' in heading and ''individual with a disability'' for ''handicapped individual'' in text.

1998—Pub. L. 105–178, § 3003(a), formerly § 3003, as renumbered by Pub. L. 105–206, § 9009(a)(1), amended section generally, revising and restating existing definitions and adding new pars. defining additional terms.

Subsec. (a)(1)(G)(i). Pub. L. 105–178, § 3003(b), as added by Pub. L. 105–206, § 9009(a)(2), substituted ''daycare or'' for ''daycare and''.

1997—Subsec. (a)(1)(B), (C). Pub. L. 105–102 made technical correction to directory language of Pub. L. 104–50, § 333(a). See 1995 Amendment notes below.

1996—Subsec. (a)(1). Pub. L. 104–287 made technical correction to directory language of Pub. L. 103–331, § 335A. See 1994 Amendment note below.

1995—Subsec. (a)(1)(B). Pub. L. 104–50, § 333(a)(1), as amended by Pub. L. 105–102, § 3(a)(1), struck out ''that extends the economic life of a bus for at least 5 years'' after ''rehabilitating a bus''.

Subsec. (a)(1)(C). Pub. L. 104–50, § 333(a)(2), as amended by Pub. L. 105–102, § 3(a)(2), struck out ''that extends the economic life of a bus for at least 8 years'' after ''remanufacturing a bus''.

1994—Subsec. (a)(1). Pub. L. 103–331, § 335A, as amended by Pub. L. 104–287, inserted ''payments for the capital portions of rail trackage rights agreements,'' after ''rights of way),''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, § 3(a), Nov. 20, 1997, 111 Stat. 2214, provided that the amendment made by section 3(a) is effective Nov. 15, 1995.

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

Section 6(c) of Pub. L. 104–287 provided that the amendment made by that section is effective Sept. 30, 1994.

EFFECTIVE DATE OF 1995 AMENDMENT

Section 333(b) of Pub. L. 104–50 provided that: ''The amendments made by this section [amending this section] shall not take effect before March 31, 1996.''

## § 5303. Metropolitan transportation planning

(a) POLICY.—It is in the national interest to—

(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 5304(d).

(b) DEFINITIONS.—In this section and section 5304, the following definitions apply:

(1) METROPOLITAN PLANNING AREA.—The term ''metropolitan planning area'' means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

(2) METROPOLITAN PLANNING ORGANIZATION.—The term ''metropolitan planning organization'' means the policy board of an organization created as a result of the designation process in subsection (d).

(3) NONMETROPOLITAN AREA.—The term ''nonmetropolitan area'' means a geographic area outside a designated metropolitan planning area.

(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term ''nonmetropolitan local official'' means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(5) TIP.—The term ''TIP'' means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

(6) URBANIZED AREA.—The term ''urbanized area'' means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

(c) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in co-

operation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—Each metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

(C) appropriate State officials.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

(A) develop the plans and TIPs for adoption by a metropolitan planning organization; and

(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

(6) DESIGNATION OF MORE THAN ONE METROPOLITAN PLANNING ORGANIZATION.—More than one metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than one metropolitan planning organization for the area appropriate.

(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

(2) INCLUDED AREA.—Each metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the Federal Public Transportation Act of 2005, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the Federal Public Transportation Act of 2005 as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (d)(1);

(B) shall encompass the areas described in paragraph (2)(A);

(C) may encompass the areas described in paragraph (2)(B); and

(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

(f) COORDINATION IN MULTISTATE AREAS.—

(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any two or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(3) LAKE TAHOE REGION.—

(A) DEFINITION.—In this paragraph, the term ''Lake Tahoe region'' has the meaning given the term ''region'' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

(C) INTERSTATE COMPACT.—

(i) IN GENERAL.—Subject to clause (ii), and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

(II) FUNDING.—For fiscal year 2008 and each fiscal year thereafter, in addition to other funds made available to the metropolitan planning organization for the Lake Tahoe region under this chapter and title 23, prior to any allocation under section 202 of title 23, and notwithstanding the allocation provisions of section 202, the Secretary shall set aside ½ of 1 percent of all funds authorized to be appropriated for such fiscal year to carry out section 204 of title 23, and shall make such funds available to the metropolitan planning organization for the Lake Tahoe region to carry out the transportation planning process, environmental reviews, preliminary engineering, and design to complete environmental documentation for transportation projects for the Lake Tahoe region under the Tahoe Regional Planning Compact as consented to in Public Law 96–551 (94 Stat. 3233) and this paragraph.

(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of such title.

(4) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

(1) NONATTAINMENT AREAS.—If more than one metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under this chapter, is located within the boundaries of more than one metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, transportation plans and TIPs shall be devel-

oped with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

(A) recipients of assistance under this chapter;

(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

(C) recipients of assistance under section 204 of title 23.

(h) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and for freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation; and

(H) emphasize the preservation of the existing transportation system.

(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

(1) IN GENERAL.—Each metropolitan planning organization shall prepare a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

(A) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

(B) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as such factors relate to a 20-year forecast period.

(B) MITIGATION ACTIVITIES.—

(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(C) FINANCIAL PLAN.—A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(D) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strate-

gies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

(F) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

(4) CONSULTATION.—

(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

(B) ISSUES.—The consultation shall involve, as appropriate—

(i) comparison of transportation plans with State conservation plans or maps, if available; or

(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

(5) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

(i) shall be developed in consultation with all interested parties; and

(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(6) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).

(j) METROPOLITAN TIP.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the area for which the organization is designated.

(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

(D) UPDATING AND APPROVAL.—The TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

(2) CONTENTS.—

(A) PRIORITY LIST.—The TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

(i) demonstrates how the TIP can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and

other similar factors) to identify the project or phase of the project.

(3) INCLUDED PROJECTS.—

(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in one line item or identified individually in the transportation improvement program.

(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

(i) by—

(I) in the case of projects under title 23, the State; and

(II) in the case of projects under this chapter, the designated recipients of public transportation funding; and

(ii) in cooperation with the metropolitan planning organization.

(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

(7) PUBLICATION.—

(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.

(C) RULEMAKING.—Not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations setting standards for the listing required by subparagraph (B) and specifying the types of data to be included in such list, including sufficient information about each project to identify its type, location, and amount obligated.

(k) TRANSPORTATION MANAGEMENT AREAS.—

(1) IDENTIFICATION AND DESIGNATION.—

(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

(2) TRANSPORTATION PLANS.—In a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23 through the use of travel demand reduction and operational management strategies. The Secretary shall establish an

appropriate phase-in schedule for compliance with the requirements of this section but no sooner than one year after the identification of a transportation management area.

(4) SELECTION OF PROJECTS.—

(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under this chapter shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under title 23 shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

(5) CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall—

(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

(C) EFFECT OF FAILURE TO CERTIFY.—

(i) Withholding of project funds.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

(ii) Restoration of withheld funds.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(*l*) ABBREVIATED PLANS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.

(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provisions of this chapter or title 23, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this chapter or title 23.

(*o*) FUNDING.—Funds set aside under section 5305(g) of this title or section 104(f) of title 23 shall be available to carry out this section.

(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 788; Pub. L. 104–287, § 5(10), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–102, § 2(4), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 105–178, title III, §§ 3004, 3029(b)(1)–(3), June 9, 1998, 112 Stat. 341, 372; Pub. L. 105–206, title IX, § 9009(b), July 22, 1998, 112 Stat. 852; Pub. L. 109–59, title III, § 3005(a), Aug. 10, 2005, 119 Stat. 1547; Pub. L. 110–244, title II, § 201(b), June 6, 2008, 122 Stat. 1609.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5303(a) | 49 App.:1607(a) (2d–last sentences). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(a) (2d–last sentences)–(g), (n); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2098, 2104. |
| 5303(b) | 49 App.:1607(f). | |
| 5303(c)(1) | 49 App.:1607(b)(1). | |
| 5303(c)(2) | 49 App.:1607(b)(2). | |
| 5303(c)(3) | 49 App.:1607(b)(6). | |
| 5303(c)(4) | 49 App.:1607(b)(4). | |
| 5303(c)(5) | 49 App.:1607(b)(5). | |
| 5303(c)(6) | 49 App.:1607(b)(3). | |
| 5303(d) | 49 App.:1607(c). | |
| 5303(e) | 49 App.:1607(d), (e). | |
| 5303(f) | 49 App.:1607(g). | |
| 5303(g) | 49 App.:1607(n). | |
| 5303(h) | 49 App.:1607(p). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(p); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2105; Oct. 6, 1992, Pub. L. 102–388, §502(h), 106 Stat. 1566. |

In this section, the word ''together'' is omitted as surplus. The words ''Secretary of Commerce'' are substituted for ''Bureau of the Census'' because of 15:1511(e).

In subsection (b)(2), the word ''applicable'' is omitted as surplus.

In subsection (b)(3), the words ''where it does not yet occur'' are omitted as surplus.

In subsection (b)(4), the words ''the provisions of all applicable'' are omitted as surplus.

In subsection (c)(4), before clause (A), the words ''whether made under this section or other provisions of law'' are omitted as surplus.

In subsection (d), the word ''entire'' is omitted as surplus.

In subsection (e)(2), the words ''or compacts'' and ''joint or otherwise'' are omitted as surplus.

In subsection (f)(3), the word ''area'' is added for clarity and consistency with 42:7501(2).

In subsection (f)(5)(A), the words ''published or otherwise'' are omitted as surplus.

In subsection (g), before clause (1), the words ''local governmental authorities'' are substituted for ''local public bodies'', and 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 United States Code.

In subsection (h)(6)(A), the words ''for obligation'', ''a period of'', and ''the close of'' are omitted as surplus.

PUB. L. 104–287

This amends 49:5303(f)(2) and (h)(4) to correct erroneous cross-references.

PUB. L. 105–102, §2(4)(A)

This amends 49:5303(c)(1) to correct an erroneous cross-reference.

PUB. L. 105–102, §2(4)(B)

This amends 49:5303(c)(4)(A) to correct an erroneous cross-reference.

PUB. L. 105–102, §2(4)(C)

This amends 49:5303(c)(5)(A) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (e)(4), (5)(D), (g)(1), (i)(3), (*l*)(2), and (m)(1), 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.

The date of enactment of the Federal Public Transportation Act of 2005, referred to in subsecs. (e)(4), (5) and (j)(7)(C), is the date of enactment of title III of Pub. L. 109–59, which was approved Aug. 10, 2005.

Public Law 96–551, referred to in subsec. (f)(3)(A), (C)(ii)(II), is Pub. L. 96–551, Dec. 19, 1980, 94 Stat. 3233, which is not classified to the Code.

The National Environmental Policy Act of 1969, referred to in subsec. (p), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is 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.

AMENDMENTS

2008—Subsec. (f)(3)(C)(ii)(II). Pub. L. 110–244, §201(b)(1), added subcl. (II) and struck out former subcl. (II). Prior to amendment, text read as follows: ''In addition to funds made available to the metropolitan planning organization for the Lake Tahoe region under other provisions of this chapter and title 23, 1 percent of the funds allocated under section 202 of title 23 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.''

Subsec. (j)(3)(D). Pub. L. 110–244, §201(b)(2), inserted ''or the identified phase'' after ''the project'' in two places.

Subsec. (k)(2). Pub. L. 110–244, §201(b)(3), struck out ''a metropolitan planning area serving'' before ''a transportation management area,''.

2005—Pub. L. 109–59 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (h) relating to designation of a metropolitan planning organization for each urbanized area with a population of more than 50,000, general requirements, scope of planning process, boundaries of each area, coordination in multistate areas, development of long-range transportation plans, grants for studies and evaluations, and apportionment of funds.

1998—Subsecs. (a), (b). Pub. L. 105–178, §3004(a), added subsecs. (a) and (b) and struck out headings and text of former subsecs. (a) and (b) which related to development requirements and plan and program factors, respectively.

Subsec. (c)(1)(A). Pub. L. 105–178, §3004(b)(1)(B), substituted ''or cities, as defined by the Bureau of the Census)'' for ''as defined by the Secretary of Commerce)''.

Pub. L. 105–178, §3004(b)(1)(A), as amended by Pub. L. 105–206, §9009(b)(1)(A), substituted ''general purpose local government that together represent'' for ''general local government representing''.

Subsec. (c)(2). Pub. L. 105–178, §3004(b)(2), substituted ''Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area when designated or redesignated under this subsection shall consist of'' for ''In a metropolitan area designated as a transportation management area, the designated metropolitan planning organization, if redesignated after December 18, 1991, shall include'' and ''officials of public agencies'' for ''officials of authorities''.

Subsec. (c)(3). Pub. L. 105–178, §3004(b)(3), as amended by Pub. L. 105–206, §9009(b)(1)(B), substituted ''within an existing metropolitan planning area only if the chief executive officer of the State and the existing metropolitan organization determine that the size and complexity of the existing metropolitan planning area'' for ''in an urbanized area (as defined by the Secretary of Commerce) only if the chief executive officer decides that the size and complexity of the urbanized area''.

Subsec. (c)(4)(A). Pub. L. 105–178, §3004(b)(4), as added by Pub. L. 105–206, §9009(b)(1)(E), directed an amendment identical to that made by Pub. L. 105–102, §2(4)(B). See 1997 Amendment note below.

Subsec. (c)(5)(A). Pub. L. 105–178, § 3004(b)(5)(A), formerly § 3004(b)(4)(A), as renumbered and amended by Pub. L. 105–206, § 9009(b)(1)(C), (D), substituted ''general purpose local government that together represent'' for ''general local government representing''.

Subsec. (c)(5)(B). Pub. L. 105–178, § 3004(b)(5)(B), formerly § 3004(b)(4)(B), as renumbered by Pub. L. 105–206, § 9009(b)(1)(D), substituted ''or cities, as defined by the Bureau of the Census)'' for ''as defined by the Secretary of Commerce)''.

Subsec. (c)(5)(D). Pub. L. 105–178, § 3004(b)(5)(C), formerly § 3004(b)(4)(C), as renumbered by Pub. L. 105–206, § 9009(b)(1)(D), added subpar. (D).

Subsec. (d). Pub. L. 105–178, § 3004(c), inserted ''Planning'' after ''Metropolitan'' in subsec. heading, designated existing provisions as par. (1), inserted par. heading, realigned margins, inserted ''planning'' before ''area'' in first sentence and substituted pars. (2) to (4) for ''The area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may include the Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Secretary of Commerce. An area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) shall include at least the boundaries of the nonattainment area, except as the chief executive officer and metropolitan planning organization otherwise agree.''

Subsec. (e)(2). Pub. L. 105–178, § 3004(d)(1), inserted ''or compact'' after ''2 States making an agreement'' and substituted ''making the agreements and compacts effective'' for ''making the agreement effective''.

Subsec. (e)(4) to (6). Pub. L. 105–178, § 3004(d)(2), as amended by Pub. L. 105–206, § 9009(b)(2), added pars. (4) to (6).

Subsec. (f). Pub. L. 105–178, § 3004(e)(5), substituted ''Developing Long-Range Transportation Plans'' for ''Developing Long-Range Plans'' in heading.

Pub. L. 105–178, § 3004(e)(6), which directed substitution of ''long-range transportation plans'' for ''long-range plans'' wherever appearing, could not be executed because ''long-range plans'' does not appear in text.

Subsec. (f)(1)(A). Pub. L. 105–178, § 3004(e)(1)(A), substituted ''national, regional, and metropolitan transportation functions'' for ''United States and regional transportation functions''.

Subsec. (f)(1)(B)(iii). Pub. L. 105–178, § 3004(e)(1)(B), added cl. (iii) and struck out former cl. (iii) which read as follows: ''recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects and programs;''.

Subsec. (f)(1)(C). Pub. L. 105–178, § 3004(e)(1)(C), added subpar. (C) and struck out former subpar. (C) which read as follows: ''assess capital investment and other measures necessary—

''(i) to ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, and operations, maintenance, modernization, and rehabilitation of existing and future mass transportation facilities; and

''(ii) to use existing transportation facilities most efficiently to relieve vehicular congestion and maximize the mobility of individuals and goods; and''.

Subsec. (f)(1)(E). Pub. L. 105–178, § 3004(f)(1), as added by Pub. L. 105–206, § 9009(b)(3), added subpar. (E).

Subsec. (f)(2). Pub. L. 105–178, § 3004(e)(2), substituted ''and any State or local goals developed within the cooperative metropolitan planning process as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process'' for ''as they are related to a 20-year forecast period''.

Subsec. (f)(4). Pub. L. 105–178, § 3004(e)(3), inserted ''freight shippers, providers of freight transportation services,'' after ''mass transportation authority employees,'' and ''representatives of users of public transit,'' after ''private providers of transportation,''.

Subsec. (f)(5)(A). Pub. L. 105–178, § 3004(e)(4), inserted ''published or otherwise'' before ''made readily available''.

Subsec. (f)(6). Pub. L. 105–178, § 3004(f)(2), as added by Pub. L. 105–206, § 9009(b)(3), added par. (6).

Subsec. (h)(1). Pub. L. 105–178, § 3029(b)(1), (2), substituted ''subsection (c) or (h)(1) of section 5338 of this title'' for ''section 5338(g)(1) of this title'' and ''sections 5304 and 5305 of this title'' for ''sections 5304–5306 of this title''.

Subsec. (h)(2)(A), (3)(A). Pub. L. 105–178, § 3029(b)(1), substituted ''subsection (c) or (h)(1) of section 5338 of this title'' for ''section 5338(g)(1) of this title''.

Subsec. (h)(4). Pub. L. 105–178, § 3029(b)(3), substituted ''subsection (c) or (h)(1) of section 5338 of this title'' for ''section 5338(g) of this title''.

1997—Subsec. (c)(1). Pub. L. 105–102, § 2(4)(A), inserted ''and sections 5304–5306 of this title'' after ''this section''.

Subsec. (c)(4)(A). Pub. L. 105–102, § 2(4)(B), substituted ''paragraph (5)'' for ''paragraph (3)''.

Subsec. (c)(5)(A). Pub. L. 105–102, § 2(4)(C), inserted ''and sections 5304–5306 of this title'' after ''this section''.

1996—Subsec. (f)(2). Pub. L. 104–287, § 5(10)(A), substituted ''subsection (b)'' for ''subsection (e)''.

Subsec. (h)(4). Pub. L. 104–287, § 5(10)(B), substituted ''section 5338(g)'' for ''5338(g)(1)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 8(1) of Pub. L. 104–287, as amended by Pub. L. 105–102, § 3(d)(2)(A), Nov. 20, 1997, 111 Stat. 2215, provided that: ''The amendments made by sections 3 and 5(10)–(17), (19), (20), (52), (53), (55), (61), (62), (65), (70), (77)–(79), and (91)–(93) of this Act [amending this section, sections 5307, 5309, 5315, 5317, 5323, 5325, 5327, 5336, 5338, 20301, 21301, 22106, 32702, 32705, 40109, 41109, 46301, 46306, 46316, 60114, 70102, and 70112 of this title, and section 1445 of Title 28, Judiciary and Judicial Procedure] shall take effect on July 5, 1994.''

SCHEDULE FOR IMPLEMENTATION

Pub. L. 109–59, title III, § 3005(b), Aug. 10, 2005, 119 Stat. 1559, provided that: ''The Secretary [of Transportation] shall issue guidance on a schedule for implementation of the changes made by this section [amending this section], taking into consideration the established planning update cycle for States and metropolitan planning organizations. The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or metropolitan planning organization plan or program updates shall reflect changes made by this section.''

## § 5304. Statewide transportation planning

(a) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 5303.

(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide

for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 5303(a), and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5303 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) INTERSTATE AGREEMENTS.—

(1) IN GENERAL.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(d) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

(G) promote efficient system management and operation; and

(H) emphasize the preservation of the existing transportation system.

(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the transportation improvement program, a project or strategy, or the certification of a planning process.

(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—

(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.

(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

(3) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan.

(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(4) MITIGATION ACTIVITIES.—

(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(5) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

(7) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.

(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

(4) INCLUDED PROJECTS.—

(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

(B) LISTING OF PROJECTS.—An annual listing of projects for which funds have been obligated in the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

(C) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

(i) consistent with the statewide transportation plan developed under this section for the State;

(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under that Act.

(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

(F) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this chapter and title 23.

(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317 of this title) by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317 of this title shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

(6) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 5303.

(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

(h) FUNDING.—Funds set aside pursuant to section 5305(g) of this title and section 104(i) of title 23 shall be available to carry out this section.

(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 5303, and sections 134 and 135 of title 23, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 5303, and sections 134 and 135 of title 23, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section, section 5303, and sections 134 and 135 of title 23, as appropriate.

(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any

decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 793; Pub. L. 105–178, title III, § 3005, June 9, 1998, 112 Stat. 345; Pub. L. 105–206, title IX, § 9009(c)(2), July 22, 1998, 112 Stat. 854; Pub. L. 109–59, title III, § 3006(a), Aug. 10, 2005, 119 Stat. 1559.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5304(a) ..... | 49 App.:1607(h)(1). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 8(h); added Nov. 6, 1978, Pub. L. 95–599, § 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, § 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, § 3012, 105 Stat. 2102; Oct. 6, 1992, Pub. L. 102–388, §§ 501, 502(e), 106 Stat. 1566. |
| 5304(b) ..... | 49 App.:1607(h)(2). | |
| 5304(c) ..... | 49 App.:1607(h)(3), (5). | |
| 5304(d) ..... | 49 App.:1607(h)(6). | |
| 5304(e) ..... | 49 App.:1607(h)(4). | |

In subsection (b)(1), the word ''initial'' is omitted as surplus.

In subsection (b)(2)(C), the words ''and programs'' are omitted as surplus.

In subsection (c)(1), the word ''otherwise'' is omitted as surplus.

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b)(2) and (g)(4)(D)(iii), 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.

The National Environmental Policy Act of 1969, referred to in subsec. (j), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is 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.

AMENDMENTS

2005—Pub. L. 109–59 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (e) relating to development and updating of a transportation improvement program, contents of program, selection of projects, notice and an opportunity to comment on proposed programs, and conformance of review requirements under the National Environmental Policy Act of 1969.

1998—Subsec. (a). Pub. L. 105–178, § 3005(d)(1), as added by Pub. L. 105–206, § 9009(c)(2), designated existing provisions as par. (1), inserted heading, and added par. (2).

Pub. L. 105–178, § 3005(a), in second sentence, substituted ''the metropolitan planning organization, in cooperation with the chief executive officer of the State and any affected mass transportation operator,'' for ''the organization'' and inserted ''other affected employee representatives, freight shippers, providers of freight transportation services,'' after ''transportation authority employees,'' and ''representatives of users of public transit,'' after ''private providers of transportation,''.

Subsec. (b)(2)(B). Pub. L. 105–178, § 3005(d)(2)(A), as added by Pub. L. 105–206, § 9009(c)(2), struck out ''and'' at end.

Subsec. (b)(2)(C). Pub. L. 105–178, § 3005(d)(2)(B), as added by Pub. L. 105–206, § 9009(c)(2), which directed amendment of subpar. (C) by substituting ''strategies; and'' for ''strategies which may include'', was executed by making the substitution for ''strategies, which may include'' to reflect the probable intent of Congress. Remaining provisions of subpar. (C) redesignated (D).

Pub. L. 105–178, § 3005(b), added subpar. (C) and struck out former subpar. (C) which read as follows: ''recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects.''

Subsec. (b)(2)(D). Pub. L. 105–178, § 3005(d)(2)(B), as added by Pub. L. 105–206, § 9009(c)(2), which directed amendment of subpar. (C) by substituting ''strategies; and'' followed by ''(D) may include'' for ''strategies which may include'', was executed by making the substitutions for ''strategies, which may include'' to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 105–178, § 3005(c)(1), added par. (1) and struck out former par. (1) which read as follows: ''Except as provided in section 5305(d)(1) of this title, the State, in cooperation with the metropolitan planning organization, shall select projects in a metropolitan area that involve United States Government participation. Selection shall comply with the transportation improvement program for the area.''

Subsec. (c)(3). Pub. L. 105–178, § 3005(c)(2), added par. (3).

Subsec. (c)(4). Pub. L. 105–178, § 3005(d)(3), as added by Pub. L. 105–206, § 9009(c)(2), added par. (4) and struck out heading and text of former par. (4). Text read as follows: ''Notwithstanding subsection (b)(2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subsection (b)(2)(C).''

Pub. L. 105–178, § 3005(c)(2), added par. (4).

Subsec. (c)(5), (6). Pub. L. 105–178, § 3005(c)(2), added pars. (5) and (6).

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

SCHEDULE FOR IMPLEMENTATION

Pub. L. 109–59, title III, § 3006(b), Aug. 10, 2005, 119 Stat. 1565, provided that: ''The Secretary [of Transportation] shall issue guidance on a schedule for implementation of the changes made by this section [amending this section], taking into consideration the established planning update cycle for States and metropolitan planning organizations. The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or metropolitan planning organization plan or program updates shall reflect changes made by this section.''

## § 5305. Planning programs

(a) STATE DEFINED.—In this section, the term ''State'' means a State of the United States, the District of Columbia, and Puerto Rico.

(b) GENERAL AUTHORITY.—

(1) GRANTS AND AGREEMENTS.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, and make agreements with other departments, agencies, or instrumentalities of the Government to—

(A) develop transportation plans and programs;

(B) plan, engineer, design, and evaluate a public transportation project; and

(C) conduct technical studies relating to public transportation.

(2) ELIGIBLE ACTIVITIES.—Activities eligible under paragraph (1) include the following:

(A) Studies related to management, planning, operations, capital requirements, and economic feasibility.

(B) Evaluating previously financed projects.

(C) Peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners.

(D) Other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

(c) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated or made available under section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

(d) METROPOLITAN PLANNING PROGRAM.—

(1) APPORTIONMENT TO STATES.—

(A) IN GENERAL.—The Secretary shall apportion 80 percent of the amounts made available under subsection (g)(1) among the States to carry out sections 5303 and 5306 in the ratio that—

(i) the population of urbanized areas in each State, as shown by the latest available decennial census of population; bears to

(ii) the total population of urbanized areas in all States, as shown by that census.

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

(2) ALLOCATION TO MPO'S.—Amounts apportioned to a State under paragraph (1) shall be made available, not later than 30 days after the date of apportionment, to metropolitan planning organizations in the State designated under this section under a formula that—

(A) considers population of urbanized areas;

(B) provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section;

(C) the State develops in cooperation with the metropolitan planning organizations; and

(D) the Secretary approves.

(3) SUPPLEMENTAL AMOUNTS.—

(A) IN GENERAL.—The Secretary shall apportion 20 percent of the amounts made available under subsection (g)(1) among the States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

(B) FORMULA.—The Secretary shall apportion amounts referred to in subparagraph (A) under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under sections 5303 and 5306 in certain urbanized areas.

(e) STATE PLANNING AND RESEARCH PROGRAM.—

(1) APPORTIONMENT TO STATES.—

(A) IN GENERAL.—The Secretary shall apportion the amounts made available under subsection (g)(2) among the States for grants and contracts to carry out this section and sections 5304, 5306, 5315, and 5322 in the ratio that—

(i) the population of urbanized areas in each State, as shown by the latest available decennial census; bears to

(ii) the population of urbanized areas in all States, as shown by that census.

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

(2) SUPPLEMENTAL AMOUNTS.—A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts made available under subsection (d).

(f) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity unless the Secretary determines that it is in the interests of the Government not to require a State or local match.

(g) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section under section 5338(c) for fiscal years 2005 through 2010, and for the period beginning October 1, 2010, and ending March 4, 2011,—[1]

(1) 82.72 percent shall be available for the metropolitan planning program under subsection (d); and

(2) 17.28 percent shall be available to carry out subsection (e).

(h) AVAILABILITY OF FUNDS.—Funds apportioned under this section to a State that have not been obligated in the 3-year period beginning after the last day of the fiscal year for which the funds are authorized shall be reapportioned among the States.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 794; Pub. L. 105–178, title III, § 3006, June 9, 1998, 112 Stat. 346; Pub. L. 105–206, title IX, § 9009(d), July 22, 1998, 112 Stat. 854; Pub. L. 109–59, title III, § 3007(a), Aug. 10, 2005, 119 Stat. 1566; Pub. L. 111–147, title IV, § 431, Mar. 18, 2010, 124 Stat. 88; Pub. L. 111–322, title II, § 2301, Dec. 22, 2010, 124 Stat. 3526.)

[1] So in original. Probably should be "2011—".

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5305(a)–(e) .. | 49 App.:1607(i). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(i); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2103; Oct. 6, 1992, Pub. L. 102–388, §502(f), 106 Stat. 1566. |
| 5305(f) ..... | 49 App.:1607(*l*). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(j), (*l*); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2104. |
| 5305(g) ..... | 49 App.:1607(j). | |

In subsection (c), the words ''title 23'' are substituted for ''this title'' for consistency in this chapter and to reflect the apparent intent of Congress. The word ''appropriate'' is omitted as surplus.

In subsection (e)(2), the words ''under the formula program'' are omitted as surplus.

In subsections (f) and (g), the word ''area'' is added for clarity and consistency with 42:7501(2).

In subsection (f), the words ''Notwithstanding any other provisions of this chapter or title 23, United States Code'' are omitted as surplus.

AMENDMENTS

2010—Subsec. (g). Pub. L. 111–322 substituted ''March 4, 2011'' for ''December 31, 2010''.

Pub. L. 111–147 substituted ''2010, and for the period beginning October 1, 2010, and ending December 31, 2010,'' for ''2009'' in introductory provisions.

2005—Pub. L. 109–59 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (h) relating to designation of areas as transportation management areas and plans and programs in an area.

1998—Subsec. (a)(2). Pub. L. 105–178, §3006(a), added par. (2) and struck out former par. (2) which read as follows: ''any other area, including the Lake Tahoe Basin as defined in the Act of December 19, 1980 (Public Law 96–551, 94 Stat. 3233), when requested by the chief executive officer and the metropolitan organization designated for the area or the affected local officials.''

Subsec. (b). Pub. L. 105–178, §3006(b), inserted ''affected'' before ''mass transportation operators''.

Subsec. (c). Pub. L. 105–178, §3006(c), struck out at end ''The Secretary shall establish a phase-in schedule to comply with sections 5303, 5304, and 5306.''

Subsec. (d)(1). Pub. L. 105–178, §3006(d), as amended by Pub. L. 105–206, §9009(d), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

''(1)(A) In consultation with the State, the metropolitan planning organization designated for a transportation management area shall select the projects to be carried out in the area with United States Government participation under this chapter or title 23, except projects of the National Highway System or under the Bridge and Interstate Maintenance programs.

''(B) In cooperation with the metropolitan planning organization designated for a transportation management area, the State shall select the projects to be carried out in the area of the National Highway System or under the Bridge and Interstate Maintenance programs.''

Subsec. (e)(2). Pub. L. 105–178, §3006(e)(1), added par. (2) and struck out former par. (2) which read as follows: ''If the Secretary does not certify before October 1, 1993, that a metropolitan planning organization is carrying out its responsibilities, the Secretary may withhold any part of the apportionment under section 104(b)(3) of title 23 attributed to the relevant metropolitan area under section 133(d)(3) of title 23 and capital amounts apportioned under section 5336 of this title. If an organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of that apportionment and capital amounts shall be withheld. The withheld apportionments shall be restored when the Secretary certifies the organization.''

Subsec. (e)(4). Pub. L. 105–178, §3006(e)(2), added par. (4).

Subsec. (h). Pub. L. 105–178, §3006(f), added subsec. (h).

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

## § 5306. Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations

(a) PRIVATE ENTERPRISE PARTICIPATION.—A plan or program required by section 5303, 5304, or 5305 of this title shall encourage to the maximum extent feasible, as determined by local policies, criteria, and decisionmaking, the participation of private enterprise. If equipment or a facility already being used in an urban area is to be acquired under this chapter, the program shall provide that it be improved so that it will better serve the transportation needs of the area.

(b) RELATIONSHIP TO OTHER LIMITATIONS.—Sections 5303–5305 of this title do not authorize—

(1) a metropolitan planning organization to impose a legal requirement on a transportation facility, provider, or project not eligible under this chapter or title 23; and

(2) intervention in the management of a transportation authority.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 795; Pub. L. 109–59, title III, §3008, Aug. 10, 2005, 119 Stat. 1568.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5306(a) ..... | 49 App.:1607(*o*). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(*o*); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2105. |
| 5306(b) ..... | 49 App.:1607(m). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(m); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2104; Oct. 6, 1992, Pub. L. 102–388, §502(g), 106 Stat. 1566. |

In subsection (a), the words ''(through modernization, extension, addition, or otherwise)'' are omitted as surplus.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59 inserted '', as determined by local policies, criteria, and decisionmaking,'' after ''feasible''.

**§ 5307. Urbanized area formula grants**

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ASSOCIATED CAPITAL MAINTENANCE ITEMS.—The term ''associated capital maintenance items'' means—

(A) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and

(B) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.

(2) DESIGNATED RECIPIENT.—The term ''designated recipient'' means—

(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 that are attributable to transportation management areas identified under section 5303; or

(B) a State or regional authority if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

(b) GENERAL AUTHORITY.—

(1) GRANTS.—The Secretary may make grants under this section for—

(A) capital projects and associated capital maintenance items;

(B) planning;

(C) transit enhancements;

(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000;

(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

(i) the urbanized area includes parts of more than one State;

(ii) the portion of the urbanized area includes only one State;

(iii) the population of the portion of the urbanized area is less than 30,000; and

(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area; and

(F) operating costs of equipment and facilities for use in public transportation for local governmental authorities in areas which adopted transit operating and financing plans that became a part of the Houston, Texas, urbanized area as a result of the 2000 decennial census of population, but lie outside the service area of the principal public transportation agency that serves the Houston urbanized area.

(2) SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2010, AND THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING MARCH 4, 2011.—

(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2005 through 2010, and the period beginning October 1, 2010, and ending March 4, 2011, to finance the operating cost of equipment and facilities for use in public transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population, if—

(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.

(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and el-

igible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2007.—In fiscal year 2007—

(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002.

(E) MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2010 AND DURING THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING MARCH 4, 2011.—In fiscal years 2008 through 2010, and during the period beginning October 1, 2010, and ending March 4, 2011,—[1]

(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 50 percent of the amount the portion of the area received under section 5311 in fiscal year 2002.

(3) In a transportation management area designated under section 5303(k) of this title, amounts that cannot be used to pay operating expenses under this section also are available for a highway project if—

(A) that use is approved, in writing, by the metropolitan planning organization under section 5303 of this title after appropriate notice and an opportunity for comment and appeal is provided to affected public transportation providers;

(B) the Secretary decides the amounts are not needed for investment required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(C) the metropolitan planning organization in approving the use under subparagraph (A) determines that the local transit needs are being addressed.

(c) PUBLIC PARTICIPATION REQUIREMENTS.—Each recipient of a grant shall—

(1) make available to the public information on amounts available to the recipient under this section and the program of projects the recipient proposes to undertake;

(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

(3) publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

(4) provide an opportunity for a public hearing in which to obtain the views of citizens on the proposed program of projects;

(5) ensure that the proposed program of projects provides for the coordination of public transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

(7) make the final program of projects available to the public.

(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a chief executive officer of a State under this section)—

(A) has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;

(B) has or will have satisfactory continuing control over the use of equipment and facilities;

(C) will maintain equipment and facilities;

(D) will ensure that elderly and handicapped individuals, or an individual presenting a medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.), will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section not more than 50 percent of the peak hour fare;

(E) in carrying out a procurement under this section—

(i) will use competitive procurement (as defined or approved by the Secretary);

[1] So in original. Probably should be ''2011—''.

(ii) will not use a procurement that uses exclusionary or discriminatory specifications;

(iii) will comply with applicable Buy America laws in carrying out a procurement; and

(iv) will comply with sections 5323 and 5325;

(F) has complied with subsection (c) of this section;

(G) has available and will provide the required amounts as provided by subsection (e) of this section;

(H) will comply with section 5301(a), section 5301(d), and sections 5303 through 5306;

(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

(J)(i) will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least one percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

(ii) has decided that the expenditure for security projects is not necessary; and

(K) in the case of a recipient for an urbanized area with a population of at least 200,000—

(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancements, as defined in section 5302(a); and

(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and

(2) the Secretary accepts the certification.

(e) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project (including associated capital maintenance items) under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

(3) REMAINING COSTS.—Subject to paragraph (4), the remainder of the net project cost shall be provided—

(A) in cash from non-Government sources other than revenues from providing public transportation services;

(B) from revenues derived from the sale of advertising and concessions;

(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

(D) from amounts received under a service agreement with a State or local social service agency or private social service organization.

(4) USE OF CERTAIN FUNDS.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.

(f) STATEWIDE OPERATING ASSISTANCE.—(1) A State authority that is a designated recipient and providing public transportation in at least 2 urbanized areas may apply for operating assistance in an amount not more than the amount for all urbanized areas in which it provides transportation.

(2) When approving an application under paragraph (1) of this subsection, the Secretary may not reduce the amount of operating assistance approved for another State or a local transportation authority within the affected urbanized areas.

(g) UNDERTAKING PROJECTS IN ADVANCE.—(1) When a recipient obligates all amounts apportioned to it under section 5336 of this title and then carries out a part of a project described in this section (except a project for operating expenses) without amounts of the Government and according to all applicable procedures and requirements (except to the extent the procedures and requirements limit a State to carrying out a project with amounts of the Government previously apportioned to it), the Secretary may pay to the recipient the Government's share of the cost of carrying out that part when additional amounts are apportioned to the recipient under section 5336 if—

(A) the recipient applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out that part, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

(2) The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

(3) The cost of carrying out that part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(h) REVIEWS, AUDITS, AND EVALUATIONS.—(1)(A) At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

(B) An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

(2) At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under sections 5303–5306 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

(3) The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

(i) PROCUREMENT SYSTEM APPROVAL.—A recipient may request the Secretary to approve its procurement system. The Secretary shall approve the system for use for procurements financed under section 5336 of this title if, after consulting with the Administrator for Federal Procurement Policy, the Secretary decides the system provides for competitive procurement. Approval of a system under this subsection does not relieve a recipient of the duty to certify under subsection (d)(1)(E) of this section.

(j) OPERATING FERRIES OUTSIDE URBANIZED AREAS.—A vessel used in ferryboat operations financed under section 5336 of this title that is part of a State-operated ferry system may be operated occasionally outside the urbanized area in which service is provided to accommodate periodic maintenance if existing ferry service is not reduced significantly by operating outside the area.

(k) RELATIONSHIP TO OTHER LAWS.—

(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333, and 5335 apply to this section and to any grant made under this section.

(2) INAPPLICABLE PROVISIONS.—

(A) IN GENERAL.—Except as provided by this section, no other provision of this chapter applies to this section or to a grant made under this section.

(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5 any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.

(*l*) TREATMENT.—For the purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 795; Pub. L. 103–429, § 6(7), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104–287, § 5(11), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–178, title III, § 3007(a)(1), (b)–(h), June 9, 1998, 112 Stat. 347, 348; Pub. L. 105–206, title IX, § 9009(e), July 22, 1998, 112 Stat. 855; Pub. L. 107–232, § 1, Oct. 1, 2002, 116 Stat. 1478; Pub. L. 108–88, § 8(n), Sept. 30, 2003, 117 Stat. 1125; Pub. L. 108–202, § 9(n), Feb. 29, 2004, 118 Stat. 488; Pub. L. 108–224, § 7(n), Apr. 30, 2004, 118 Stat. 636; Pub. L. 108–263, § 7(n), June 30, 2004, 118 Stat. 708; Pub. L. 108–280, § 7(n), July 30, 2004, 118 Stat. 885; Pub. L. 108–310, § 8(n), Sept. 30, 2004, 118 Stat. 1158; Pub. L. 109–14, § 7(m), May 31, 2005, 119 Stat. 333; Pub. L. 109–20, § 7(m), July 1, 2005, 119 Stat. 355; Pub. L. 109–35, § 7(m), July 20, 2005, 119 Stat. 389; Pub. L. 109–37, § 7(m), July 22, 2005, 119 Stat. 404; Pub. L. 109–40, § 7(m), July 28, 2005, 119 Stat. 420; Pub. L. 109–59, title III, §§ 3002(b)(4), 3009(a)–(h), Aug. 10, 2005, 119 Stat. 1545, 1568–1571; Pub. L. 110–244, title II, § 201(c), June 6, 2008, 122 Stat. 1609; Pub. L. 111–147, title IV, § 432, Mar. 18, 2010, 124 Stat. 88; Pub. L. 111–322, title II, § 2302, Dec. 22, 2010, 124 Stat. 3526.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5307(a)(1) .... | 49 App.:1607a(j)(1) (last sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(1) (last sentence); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§ 309(b)(1), (2), 327(b), 101 Stat. 227, 238. |
| 5307(a)(2) .... | 49 App.:1607a(m)(1). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(h), (i), (m)(1); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2145, 2147; Apr. 2, 1987, Pub. L. 100–17, § 327(b), 101 Stat. 238; Oct. 6, 1992, Pub. L. 102–388, § 503(2), 106 Stat. 1567. |
| 5307(b)(1) .... | 49 App.:1607a(j)(1) (1st sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(1) (1st sentence); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§ 309(b)(3), 327(b), 101 Stat. 227, 238. |
| 5307(b)(2) .... | 49 App.:1607a(j)(1) (2d sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(1) (2d sentence); added Dec. 18, 1991, Pub. L. 102–240, § 3013(h)(1), 105 Stat. 2107. |
| 5307(b)(3) .... | 49 App.:1607a(j)(1) (3d, 4th sentences). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(1) (3d, 4th sentences); added Apr. 2, 1987, Pub. L. 100–17, § 308, 101 Stat. 226. |
| 5307(b)(4) .... | 49 App.:1607a(j)(2). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(2); added Apr. 2, 1987, Pub. L. 100–17, § 309(b)(4), 101 Stat. 227. |
| 5307(b)(5) .... | 49 App.:1607a(j)(3). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(3); added Dec. 18, 1991, Pub. L. 102–240, § 3013(h)(2), 105 Stat. 2107. |
| 5307(c) ..... | 49 App.:1607a(f). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(f); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2144; Apr. 2, 1987, Pub. L. 100–17, § 327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, § 3013(g), 105 Stat. 2107. |

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

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5307(d)(1) .... | 49 App.:1607a(e)(2) (1st, last sentences). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(2); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17, §§312(a), 327(b), 101 Stat. 228, 238; Dec. 18, 1991, Pub. L. 102–240, §3013(d), 105 Stat. 2106. |
| | 49 App.:1607a(e)(3). | July 9, 1964, Pub. L. 88–365, 78 Stat. 202, §9(e)(3); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3013(f), 105 Stat. 2106. |
| 5307(d)(2) .... | 49 App.:1607a(e)(5). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(5); added Apr. 2, 1987, Pub. L. 100–17, §312(f)(1), 101 Stat. 229. |
| 5307(e) ..... | 49 App.:1607a(k)(1). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(k)(1); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§309(c), (d), (f), 312(b)(1), 327(b), 101 Stat. 227, 228, 238. |
| 5307(f) ..... | 49 App.:1607a (note). | Nov. 21, 1989, Pub. L. 101–164, §334(c), 103 Stat. 1098. |
| 5307(g) ..... | 49 App.:1607a(p). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(p); added Apr. 2, 1987, Pub. L. 100–17, §306(b), 101 Stat. 225. |
| 5307(h) ..... | 49 App.:1607a(e)(6). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(6); added Dec. 18, 1991, Pub. L. 102–240, §3013(e), 105 Stat. 2106. |
| 5307(i) ..... | 49 App.:1607a(g). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(g); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2144; Apr. 2, 1987, Pub. L. 100–17, §§312(f)(2), 327(b), 101 Stat. 229, 238. |
| 5307(j) ..... | 49 App.:1607a(e)(4). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(4); added Apr. 2, 1987, Pub. L. 100–17, §312(b)(2), 101 Stat. 228. |
| 5307(k) ..... | 49 App.:1607a(e)(2) (2d, 3d sentences). | |
| 5307(*l*) ..... | 49 App.:1607a(i). | |
| 5307(m) ..... | 49 App.:1607a(r). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(r); added Dec. 18, 1991, Pub. L. 102–240, §3013(j), 105 Stat. 2107. |
| 5307(n)(1) .... | 49 App.:1607a(h). | |
| 5307(n)(2) .... | 49 App.:1607a(e)(1). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(1); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3013(c), 105 Stat. 2106. |

In subsection (a)(2)(A), the word ''required'' is omitted as surplus. The word ''apportion'' is substituted for ''dispense'' for consistency in this chapter. The word ''appropriated'' is omitted for clarity.

In subsection (a)(2)(B), the word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code. The words ''by lease, contract, or otherwise'' are omitted as surplus.

In subsection (b)(1), the words ''by operation or lease or otherwise'' are omitted as surplus.

In subsection (b)(3), the words ''the Secretary prescribes'' are added for clarity. The text of 49 App.:1607a(j)(1) (4th sentence) is omitted as executed.

In subsection (b)(4), the words ''(whether by employees of the grant recipient or by contract)'' are omitted as surplus.

In subsection (c)(1), the words ''of funds'' are omitted as surplus. The words ''to the recipient'' are added for clarity. The words ''with such funds'' are omitted as surplus.

In subsection (c)(3), the words ''as appropriate'' are omitted as surplus.

In subsection (c)(5), the words ''and shall, if deemed appropriate by the recipient, modify the proposed program of projects'' are omitted as surplus.

In subsection (d)(1)(B), the words ''through operation or lease or otherwise'' are omitted as surplus.

In subsection (d)(1)(D), the words ''ensure that elderly and handicapped individuals . . . will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this chapter not more than 50 percent of the peak hour fare'' are substituted for 49 App.:1607a(e)(3)(C) and the words ''will give the rate required by section 1604(m) of this Appendix'' for clarity and consistency in the revised title. The word ''duly'' is omitted as surplus.

In subsection (d)(1)(J)(ii), the words ''has decided'' are added for clarity to correct an error in the source provisions being restated.

In subsection (e), the words ''at its option'', ''public'', ''the amount of any'', ''by such system'', ''Any public or private'', ''solely'', and ''available in'' are omitted as surplus.

In subsection (f), the word ''authority'' is substituted for ''agency or instrumentality'' for consistency in the revised title and with other titles of the Code.

In subsection (f)(1), the words ''is responsible under State laws for the financing, construction and operation, directly by lease, contract or otherwise, of public transportation services'' are omitted as surplus because a State that is a designated recipient has that responsibility. The words ''of UMTA funds'', ''combined total permissible'', and ''regardless of whether the amount for any particular urbanized area is exceeded'' are omitted as surplus.

In subsection (f)(2), the word ''Secretary'' is substituted for ''UMTA'' [subsequently changed to ''FTA'' because of section 3004(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2088)] because of 49:102(b) and 107(a). The words ''This provision shall take effect with the fiscal year 1990 section 9 apportionment'' are omitted as obsolete.

In subsection (g)(2), before clause (A), the word ''applies'' is substituted for ''is sought beyond the currently authorized funds for such recipient'' to eliminate unnecessary words. In clause (A), the words ''of funds'' are omitted as surplus.

In subsection (g)(3), the words ''Subject to the provisions of this paragraph'', ''the Federal share of which the Secretary is authorized to pay under this subsection'', and ''actually'' are omitted as surplus.

In subsection (i)(1)(A), before clause (i), the words ''necessary or'' are omitted as surplus. In clause (ii), the words ''required by law'' are substituted for ''which is consistent with the applicable requirements of this chapter and other applicable laws'' to eliminate unnecessary words.

In subsection (i)(1)(B), the words ''Comptroller General'' are substituted for ''General Accounting Office'' because of 31:702(b).

In subsection (i)(2), the words ''In addition to the reviews and audits described in paragraph (1)'' and ''perform a'' are omitted as surplus.

Subsection (i)(3) is substituted for 49 App.:1607a(g)(3) to eliminate unnecessary words.

In subsection (*l*), the words ''Administrator for Federal Procurement Policy'' are substituted for ''Office of Federal Procurement Policy'' because of 41:404(b). The words ''Such approval shall be binding until withdrawn'' are omitted as surplus.

In subsection (n)(1), the words ''available under section 5336 of this title'' are substituted for ''available under this subsection'' for clarity.

In subsection (n)(2), the references to sections 5302(a)(8) and 5318 are added for clarity. The source provisions of sections 5302(a)(8) and 5318, enacted by section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17, 101 Stat. 233), were not intended to come under the exclusion stated in 49 App.:1607a(e)(1). The reference to 49 App.:1604(k)(3) is omitted as obsolete. The words ''con-

dition, limitation, or other'' and ''for programs of projects'' are omitted as surplus.

PUB. L. 103–429, § 6(7)(A)

This amends 49:5307(d)(1)(D) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 797).

PUB. L. 103–429, § 6(7)(B)

This makes a clarifying amendment to 49:5307(d)(1)(E)(iii).

PUB. L. 104–287

This amends 49:5307(a)(2) to delete an obsolete provision.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(3)(B), 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 Social Security Act, referred to in subsec. (d)(1)(D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles II and XVIII of such Act are classified generally to subchapters II (§ 401 et seq.) and XVIII (§ 1395 et seq.) respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2010—Subsec. (b)(2). Pub. L. 111–322, § 2302(1), substituted ''March 4, 2011'' for ''December 31, 2010'' in heading.

Pub. L. 111–147, § 432(1), substituted ''2010, AND THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING DECEMBER 31, 2010'' for ''2009'' in heading.

Subsec. (b)(2)(A). Pub. L. 111–322, § 2302(2), substituted ''March 4, 2011'' for ''December 31, 2010'' in introductory provisions.

Pub. L. 111–147, § 432(2), substituted ''2010, and the period beginning October 1, 2010, and ending December 31, 2010,'' for ''2009,'' in introductory provisions.

Subsec. (b)(2)(E). Pub. L. 111–322, § 2302(3), substituted ''March 4, 2011'' for ''December 31, 2010'' in heading and introductory provisions.

Pub. L. 111–147, § 432(3), substituted ''THROUGH 2010 AND DURING THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING DECEMBER 31, 2010'' for ''AND 2009'' in heading and ''through 2010, and during the period beginning October 1, 2010, and ending December 31, 2010,'' for ''and 2009'' in introductory provisions.

2008—Subsec. (b)(2). Pub. L. 110–244, § 201(c)(1), substituted ''2009'' for ''2007'' in heading.

Subsec. (b)(2)(A). Pub. L. 110–244, § 201(c)(2), in introductory provisions, substituted ''2009'' for ''2007'' and ''public'' for ''mass''.

Subsec. (b)(2)(E). Pub. L. 110–244, § 201(c)(3), added subpar. (E).

Subsec. (b)(3). Pub. L. 110–244, § 201(c)(4), substituted ''section 5303(k)'' for ''section 5305(a)'' in introductory provisions.

2005—Subsec. (a)(1). Pub. L. 109–59, § 3009(b)(1), substituted ''means—'' for ''means'', designated part of existing provisions as subpar. (A), and added subpar. (B).

Subsec. (a)(2)(A). Pub. L. 109–59, § 3009(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''a person designated, consistent with the planning process under sections 5303–5306 of this title, by the chief executive officer of a State, responsible local officials, and publicly owned operators of mass transportation to receive and apportion amounts under section 5336 of this title that are attributable to transportation management areas established under section 5305(a) of this title; or''.

Subsec. (a)(2)(B). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (b)(1). Pub. L. 109–59, § 3009(c)(1), added par. (1) and struck out former par. (1) which read as follows: ''The Secretary of Transportation may make grants under this section for capital projects and to finance the planning and improvement costs of equipment, facilities, and associated capital maintenance items for use in mass transportation, including the renovation and improvement of historic transportation facilities with related private investment. The Secretary may also make grants under this section to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of less than 200,000.''

Subsec. (b)(2). Pub. L. 109–59, § 3009(c)(2), added par. (2) and struck out former par. (2) which related to special rule for fiscal years 2003 and 2004 and for the period of Oct. 1, 2004, through July 30, 2005.

Pub. L. 109–40, § 7(m)(1), substituted ''JULY 30, 2005'' for ''JULY 27, 2005'' in heading.

Pub. L. 109–37, § 7(m)(1), substituted ''JULY 27, 2005'' for ''JULY 21, 2005'' in heading.

Pub. L. 109–35, § 7(m)(1), substituted ''JULY 21, 2005'' for ''JULY 19, 2005'' in heading.

Pub. L. 109–20, § 7(m)(1), substituted ''JULY 19, 2005'' for ''JUNE 30, 2005'' in heading.

Pub. L. 109–14, § 7(m)(1), substituted ''JUNE 30, 2005'' for ''MAY 31, 2005'' in heading.

Subsec. (b)(2)(A). Pub. L. 109–40, § 7(m)(2), substituted ''July 30, 2005'' for ''July 27, 2005'' in introductory provisions.

Pub. L. 109–37, § 7(m)(2), substituted ''July 27, 2005'' for ''July 21, 2005'' in introductory provisions.

Pub. L. 109–35, § 7(m)(2), substituted ''July 21, 2005'' for ''July 19, 2005'' in introductory provisions.

Pub. L. 109–20, § 7(m)(2), substituted ''July 19, 2005'' for ''June 30, 2005'' in introductory provisions.

Pub. L. 109–14, § 7(m)(2), substituted ''June 30, 2005'' for ''May 31, 2005'' in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (b)(4). Pub. L. 109–59, § 3009(c)(3), struck out par. (4) which read as follows: ''A project for the reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used, is a capital project for an associated capital maintenance item under this section.''

Subsec. (c)(5). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (d)(1)(A). Pub. L. 109–59, § 3009(d)(1), inserted '', including safety and security aspects of the program'' before semicolon at end.

Subsec. (d)(1)(E)(iv). Pub. L. 109–59, § 3009(d)(2), added cl. (iv).

Subsec. (d)(1)(H). Pub. L. 109–59, § 3009(d)(3), substituted ''section 5301(a), section 5301(d), and sections 5303 through 5306'' for ''sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title''.

Subsec. (d)(1)(J)(i). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' wherever appearing.

Subsec. (d)(1)(K). Pub. L. 109–59, § 3009(d)(4), (5), added subpar. (K).

Subsec. (e). Pub. L. 109–59, § 3009(e), reenacted heading without change and amended text of subsec. (e) generally. Prior to amendment, text read as follows: ''A grant of the Government for a capital project (including associated capital maintenance items) under this section is for 80 percent of the net project cost of the project. A recipient may provide additional local matching amounts. A grant for operating expenses may not be more than 50 percent of the net project cost of the project. The remainder of the net project cost shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation (excluding revenues derived from the sale of advertising and concessions that are more than

the amount of those revenues in the fiscal year that ended September 30, 1985). Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.''

Subsec. (f)(1). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (g)(4). Pub. L. 109–59, § 3009(f), struck out par. (4) which read as follows: ''The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (3) of this subsection.''

Subsecs. (h), (i). Pub. L. 109–59, § 3009(a), redesignated subsecs. (i) and (*l*) as (h) and (i), respectively, and struck out heading and text of former subsec. (h). Text read as follows: ''The Secretary shall prescribe streamlined administrative procedures for complying with the certification requirement under subsection (d)(1)(B) and (C) of this section for track and signal equipment used in existing operations.''

Subsec. (j). Pub. L. 109–59, § 3009(a), redesignated subsec. (m) as (j) and struck out heading and text of former subsec. (j). Text read as follows: ''A recipient (including a person receiving amounts from a chief executive officer of a State under this section) shall submit annually to the Secretary a report on the revenues the recipient derives from the sale of advertising and concessions.''

Subsec. (k). Pub. L. 109–59, § 3009(g), reenacted heading without change and amended text of subsec. (k) generally. Prior to amendment, text read as follows:

''(1) Section 1001 of title 18 applies to a certificate or submission under this section. The Secretary may end a grant under this section and seek reimbursement, directly or by offsetting amounts available under section 5336 of this title, when a false or fraudulent statement or related act within the meaning of section 1001 is made in connection with a certification or submission.

''(2) Sections 5302, 5318, 5319, 5323(a)(1), (d), and (f), 5332, and 5333 of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.''

Pub. L. 109–59, § 3009(a), redesignated subsec. (n) as (k) and struck out heading and text of former subsec. (k). Text read as follows:

''(1) IN GENERAL.—One percent of the funds apportioned to urbanized areas with a population of at least 200,000 under section 5336 for a fiscal year shall be made available for transit enhancement activities in accordance with section 5302(a)(15).

''(2) PERIOD OF AVAILABILITY.—Funds apportioned under paragraph (1) shall be available for obligation for 3 years following the fiscal year in which the funds are apportioned. Funds that are not obligated at the end of such period shall be reapportioned under the urbanized area formula program of section 5336.

''(3) REPORT.—A recipient of funds apportioned under paragraph (1) shall submit, as part of the recipient's annual certification to the Secretary, a report listing the projects carried out during the preceding fiscal year with those funds.''

Subsec. (*l*). Pub. L. 109–59, § 3009(h), added subsec. (*l*).

Pub. L. 109–59, § 3009(a)(2), redesignated subsec. (*l*) as (i).

Subsecs. (m), (n). Pub. L. 109–59, § 3009(a)(2), redesignated subsecs. (m) and (n) as (j) and (k), respectively.

2004—Subsec. (b)(2). Pub. L. 108–310 inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''2004'' in heading and directed the insertion of ''and for the period of October 1, 2004, through May 31, 2005'' after ''2004,'' in subpar. (A), which was executed by making the insertion after ''2004'' in introductory provisions of subpar. (A), to reflect the probable intent of Congress.

Pub. L. 108–280 substituted ''FISCAL YEARS 2003 AND 2004'' for ''FISCAL YEAR 2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31, 2004'' in heading and ''fiscal years 2003 and 2004'' for ''fiscal year 2003, and for the period of October 1, 2003, through July 31, 2004'' in introductory provisions of subpar. (A).

Pub. L. 108–263 substituted ''JULY 31, 2004'' for ''JUNE 30, 2004'' in heading and ''July 31, 2004'' for ''June 30, 2004'' in introductory provisions of subpar. (A).

Pub. L. 108–224 substituted ''JUNE 30, 2004'' for ''APRIL 30, 2004'' in heading and ''June 30, 2004'' for ''April 30, 2004'' in introductory provisions of subpar. (A).

Pub. L. 108–202 substituted ''APRIL 30, 2004'' for ''FEBRUARY 29, 2004'' in heading and ''April 30, 2004'' for ''February 29, 2004'' in introductory provisions of subpar. (A).

2003—Subsec. (b)(2). Pub. L. 108–88, § 8(n)(1), inserted ''and for the period of October 1, 2003, through February 29, 2004'' after ''2003'' in heading.

Subsec. (b)(2)(A). Pub. L. 108–88, § 8(n)(2), inserted ''and for the period of October 1, 2003, through February 29, 2004'' after ''2003,'' and added cl. (iv).

Subsec. (b)(2)(B). Pub. L. 108–88, § 8(n)(3), inserted at end ''Each portion of an area not designated as an urbanized area under the 1990 Federal decennial census and eligible to receive funds under subparagraph (A)(iv) shall receive an amount of funds made available to carry out this section that is no less than the amount the portion of the area received under section 5311 in fiscal year 2002.''

2002—Subsec. (b)(1). Pub. L. 107–232, § 1(1), struck out at end ''The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000.''

Subsec. (b)(2) to (4). Pub. L. 107–232, § 1(2)–(4), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and realigned margins of par. (3)(C), as redesignated.

1998—Pub. L. 105–178, § 3007(a)(1), substituted ''Urbanized area formula grants'' for ''Block grants'' in section catchline.

Subsec. (a). Pub. L. 105–178, § 3007(b)(1), substituted ''In this section, the following definitions apply:'' for ''In this section—'' in introductory provisions.

Subsec. (a)(1). Pub. L. 105–178, § 3007(b)(2), inserted ''ASSOCIATED CAPITAL MAINTENANCE ITEMS.—The term'' after ''(1)''.

Subsec. (a)(2). Pub. L. 105–178, § 3007(b)(3), inserted ''DESIGNATED RECIPIENT.—The term'' after ''(2)''.

Subsec. (b)(1). Pub. L. 105–178, § 3007(h)(1), as added by Pub. L. 105–206, § 9009(e), inserted at end ''The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000.''

Pub. L. 105–178, § 3007(c)(1), substituted ''and improvement costs of equipment'' for '', improvement, and operating costs of equipment'' and inserted at end ''The Secretary may also make grants under this section to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of less than 200,000.''

Subsec. (b)(2)(A). Pub. L. 105–178, § 3007(c)(2)(A), inserted '', in writing,'' after ''approved''.

Subsec. (b)(2)(C). Pub. L. 105–178, § 3007(c)(2)(B)–(4), added subpar. (C).

Subsec. (b)(3), (4). Pub. L. 105–178, § 3007(c)(5), (6), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: ''A grant for a capital project under this section also is available to finance the leasing of equipment and facilities for use in mass transportation, subject to regulations the Secretary prescribes limiting the grant to leasing arrangements that are more cost effective than acquisition or construction.''

Subsec. (b)(5). Pub. L. 105–178, § 3007(c)(5), struck out par. (5) which read as follows: ''Amounts under this section are available for a highway project under title 23 only if amounts used for the State or local share of the project are eligible to finance either a highway or mass transportation project.''

Subsec. (g)(3). Pub. L. 105–178, § 3007(d), substituted ''the most favorable financing terms reasonably avail-

able for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.'' for ''the amount by which the estimated cost of carrying out the part (if it would be carried out at the time the part is converted to a regularly financed project) exceeds the actual cost (except interest) of carrying out the part.''

Subsec. (i)(2). Pub. L. 105–178, § 3007(e), inserted at end ''To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.''

Subsec. (k). Pub. L. 105–178, § 3007(f), amended heading and text of subsec. (k) generally. Prior to amendment, text read as follows: ''A certification under subsection (d) of this section and any additional certification required by law to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(e)(2) of this title.''

Subsec. (k)(3). Pub. L. 105–178, § 3007(h)(2), as added by Pub. L. 105–206, § 9009(e), inserted ''preceding'' before ''fiscal year''.

Subsec. (n)(2). Pub. L. 105–178, § 3007(g), inserted ''5319,'' after ''5318,''.

1996—Subsec. (a)(2). Pub. L. 104–287 substituted ''title; or'' for ''title;'' in subpar. (A) and ''transportation.'' for ''transportation; or'' in subpar. (B) and struck out subpar. (C) which read as follows: ''a recipient designated under section 5(b)(1) of the Federal Transit Act not later than January 5, 1983.''

1994—Subsec. (d)(1)(D). Pub. L. 103–429, § 6(7)(A), substituted ''section'' for ''chapter''.

Subsec. (d)(1)(E)(iii). Pub. L. 103–429, § 6(7)(B), substituted ''Buy America'' for ''Buy-American''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

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.

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 COOPERATIVE PROCUREMENT OF MAJOR CAPITAL EQUIPMENT

Pub. L. 108–447, div. H, title I, § 167, Dec. 8, 2004, 118 Stat. 3228, provided that: ''The Secretary shall continue the pilot program authorized under section 166 of the Consolidated Appropriations Act, 2004, Public Law 108–199; 118 Stat. 309 [set out below], for cooperative procurement of major capital equipment under sections 5307, 5309, and 5311 [of title 49, United States Code]. The program shall be administered as required under subsections (b) through (g) of section 166, except that there shall be five pilot projects: *Provided*, That the Secretary shall evaluate all proposals based on selection criteria set forth in the announcement of the program and request for proposals (Federal Register Notice—Vol. 69, No. 120, Page 35127, June 23, 2004). All proposed projects shall be evaluated and the proposing party shall receive notification of acceptance or denial by no later than 90 days after the Secretary receives a request for review of a proposed project: *Provided further*, That not later than 30 days after delivery of the base order under each of the five pilot projects, the Secretary shall submit to the House and Senate Committees on Appropriations a report on the results of that pilot project. Each report shall evaluate any savings realized through the cooperative procurement and the benefits of incorporating cooperative procurement, as shown by that project, into the mass transit program as a whole.''

Pub. L. 108–199, div. F, title I, § 166, Jan. 23, 2004, 118 Stat. 309, provided that:

''(a) IN GENERAL.—The Secretary shall establish a pilot program to determine the benefits of encouraging cooperative procurement of major capital equipment under sections 5307, 5309, and 5311 [of title 49, United States Code]. The program shall consist of three pilot projects. Cooperative procurements in these projects may be carried out by grantees, consortiums of grantees, or members of the private sector acting as agents of grantees.

''(b) FEDERAL SHARE.—Notwithstanding any other provision of law, the Federal share for a grant under this pilot program shall be 90 percent of the net project cost.

''(c) PERMISSIBLE ACTIVITIES.—

''(1) DEVELOPING SPECIFICATIONS.—Cooperative specifications may be developed either by the grantees or their agents.

''(2) REQUESTS FOR PROPOSALS.—To the extent permissible under State and local law, cooperative procurements under this section may be carried out, either by the grantees or their agents, by issuing one request for proposal for each cooperative procurement, covering all agencies that are participating in the procurement.

''(3) BEST AND FINAL OFFERS.—The cost of evaluating best and final offers either by the grantees or their agents, is an eligible expense under this program.

''(d) TECHNOLOGY.—To the extent feasible, cooperative procurements under this section shall maximize use of Internet-based software technology designed specifically for transit buses and other major capital equipment to develop specifications; aggregate equipment requirements with other transit agencies; generate cooperative request for proposal packages; create cooperative specifications; and automate the request for approved equals process.

''(e) ELIGIBLE EXPENSES.—The cost of the permissible activities under (c) and procurement under (d) are eligible expenses under the pilot program.

''(f) PROPORTIONATE CONTRIBUTIONS.—Cooperating agencies may contribute proportionately to the non-Federal share of any of the eligible expenses under (e).

''(g) OUTREACH.—The Secretary shall conduct outreach on cooperative procurement. Under this program the Secretary shall: (1) offer technical assistance to transit agencies to facilitate the use of cooperative procurement of major capital equipment; and (2) conduct seminars and conferences for grantees, nationwide, on the concept of cooperative procurement of major capital equipment.

''(h) REPORT.—Not later than 30 days after delivery of the base order under each of the pilot projects, the Secretary shall submit to the House and Senate Committees on Appropriations a report on the results of that pilot project. Each report shall evaluate any savings realized through the cooperative procurement and the benefits of incorporating cooperative procurement, as shown by that project, into the mass transit program as a whole.''

LOCAL SHARE

Pub. L. 105–178, title III, § 3011, June 9, 1998, 112 Stat. 357, as amended by Pub. L. 108–202, § 9(u), Feb. 29, 2004, 118 Stat. 489; Pub. L. 108–224, § 7(u), Apr. 30, 2004, 118 Stat. 637; Pub. L. 108–263, § 7(u), June 30, 2004, 118 Stat. 708; Pub. L. 108–280, § 7(u), July 30, 2004, 118 Stat. 886; Pub. L. 108–310, § 8(u), Sept. 30, 2004, 118 Stat. 1158; Pub.

L. 109–14, § 7(t), May 31, 2005, 119 Stat. 334; Pub. L. 109–20, § 7(s), July 1, 2005, 119 Stat. 356; Pub. L. 109–35, § 7(s), July 20, 2005, 119 Stat. 389; Pub. L. 109–37, § 7(s), July 22, 2005, 119 Stat. 404; Pub. L. 109–40, § 7(s), July 28, 2005, 119 Stat. 421, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law, for fiscal years 1999 through 2004 and for the period of October 1, 2004, through July 30, 2005, a recipient of assistance under section 5307 or 5309 of title 49, United States Code, may use, as part of the local matching funds for a capital project (as defined in section 5302(a) of title 49, United States Code), the proceeds from the issuance of revenue bonds.

''(b) MAINTENANCE OF EFFORT.—The Secretary [of Transportation] shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost (as defined in section 5302(a) of title 49, United States Code) only if the aggregate amount of financial support for mass transportation in the urbanized area from the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State Transportation Improvement Program under section 135 of title 23, United States Code, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

''(c) REPORT.—

''(1) IN GENERAL.—Not later than January 1, 2003, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the recipients described in subsection (a) that have used, as part of the local matching funds for a capital project, the proceeds from the issuance of revenue bonds, during the period described in subsection (a).

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

''(A) information on each project undertaken, the amount of the revenue bonds issued, and the status of repayment of the bonds; and

''(B) any recommendations of the Secretary regarding the application of this section.''

PILOT PROGRAM FOR INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND

Pub. L. 105–178, title III, § 3021, June 9, 1998, 112 Stat. 363; as amended by Pub. L. 105–206, title IX, § 9009(m), July 22, 1998, 112 Stat. 857; Pub. L. 105–277, div. A, § 101(g) [title III, § 354], Oct. 21, 1998, 112 Stat. 2681–439, 2681–476; Pub. L. 106–69, title III, § 323, Oct. 9, 1999, 113 Stat. 1020, provided that:

''(a) IN GENERAL.—The Secretary [of Transportation] shall establish a pilot program to determine the benefits of using funds from the Mass Transit Account of the Highway Trust Fund for intercity passenger rail. The funds made available to the State of Oklahoma and the State of Vermont to carry out sections 5307 and 5311 of title 49, United States Code during fiscal years 1998 through 2003 may be used for capital improvements to, and operating assistance for, intercity passenger rail service.

''(b) REPORT.—

''(1) IN GENERAL.—Not later than October 1, 2002, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program established under this section.

''(2) CONTENTS.—The report submitted under paragraph (1) shall include—

''(A) an evaluation of the effect of the pilot program on alternative forms of transportation within the State of Oklahoma and the State of Vermont;

''(B) an evaluation of the effect of the program on operators of mass transportation and their passengers;

''(C) a calculation of the amount of Federal assistance provided under this section transferred for the provision of intercity passenger rail service; and

''(D) an estimate of the benefits to intercity passenger rail service, including the number of passengers served, the number of route miles covered, and the number of localities served by intercity passenger rail service.''

CONTINUATION OF OPERATING ASSISTANCE TO CERTAIN LARGER URBANIZED AREAS

Pub. L. 105–178, title III, § 3027(c), June 9, 1998, 112 Stat. 366; as amended by Pub. L. 105–206, title IX, § 9009(*o*)(1), July 22, 1998, 112 Stat. 858; Pub. L. 105–277, div. A, § 101(g) [title III, § 360], Oct. 21, 1998, 112 Stat. 2681–439, 2681–477; Pub. L. 106–31, title VI, § 6004, May 21, 1999, 113 Stat. 113; Pub. L. 106–346, § 101(a) [title III, § 341], Oct. 23, 2000, 114 Stat. 1356, 1356A–32; Pub. L. 108–199, div. F, title I, § 176, Jan. 23, 2004, 118 Stat. 311, provided that:

''(1) PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, during the period described in paragraph (2), the Secretary [of Transportation] may continue to provide assistance under section 5307 of title 49, United States Code, to finance the operating costs of equipment and facilities for use in mass transportation in any urbanized area (as that term is defined in section 5302 of title 49, United States Code) with a population of at least 200,000, if the Secretary determines that—

''(A) the number of the total bus revenue vehicle-miles operated in or directly serving the area is less than 900,000; and

''(B) the number of buses operated in or directly serving the area does not exceed 15.

''(2) PERIOD DESCRIBED.—For purposes of paragraph (1), the period described in this paragraph is the period beginning on the date of enactment of this Act [June 9, 1998] and ending on the earlier of—

''(A) 3 years after the date of enactment of this Act; and

''(B) the date on which the Secretary determines that—

''(i) the number of the total bus revenue vehicle-miles operated in or directly serving the area is greater than or equal to 900,000; and

''(ii) the number of buses operated in or directly serving the area exceeds 15.

''(3) SERVICES FOR ELDERLY AND PERSONS WITH DISABILITIES.—In addition to assistance made available under paragraph (1), the Secretary may provide assistance under section 5307 of title 49, United States Code, to a transit provider that operates 20 or fewer vehicles in an urbanized area with a population of at least 200,000 to finance the operating costs of equipment and facilities used by the transit provider in providing mass transportation services to elderly and persons with disabilities, provided that such assistance to all entities shall not exceed $1,444,000 annually.''

## § 5308. Clean fuels grant program

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) CLEAN FUEL BUS.—The term ''clean fuel bus'' means a passenger vehicle used to provide public transportation that—

(A) is powered by—

(i) compressed natural gas;

(ii) liquefied natural gas;

(iii) biodiesel fuels;

(iv) batteries;

(v) alcohol-based fuels;

(vi) hybrid electric;

(vii) fuel cell;

(viii) clean diesel, to the extent allowed under this section; or

(ix) other low or zero emissions technology; and

(B) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions.

(2) ELIGIBLE PROJECT.—The term ''eligible project''—

(A) means a project in a nonattainment or maintenance area described in paragraph (4)(A) for—

(i) purchasing or leasing clean fuel buses, including buses that employ a lightweight composite primary structure;

(ii) constructing or leasing clean fuel buses or electrical recharging facilities and related equipment for such buses; or

(iii) constructing new or improving existing public transportation facilities to accommodate clean fuel buses; and

(B) at the discretion of the Secretary, may include a project located in a nonattainment or maintenance area described in paragraph (4)(A) relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology buses that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

(3) MAINTENANCE AREA.—The term ''maintenance area'' has the meaning such term has under section 101 of title 23.

(4) RECIPIENT.—

(A) IN GENERAL.—The term ''recipient'' means a designated recipient (as defined in section 5307(a)(2)) for an area that, and a recipient for an urbanized area with a population of less than 200,000 that—

(i) is designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

(ii) is a maintenance area for ozone or carbon monoxide.

(B) SMALLER URBANIZED AREAS.—In the case of an urbanized area with a population of less than 200,000, the State in which the area is located shall act as the recipient for the area under this section.

(b) AUTHORITY.—The Secretary shall make grants in accordance with this section to recipients to finance eligible projects.

(c) CLEAN DIESEL BUSES.—Not more than 25 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

(2) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) applies to projects carried out under this section.

(e) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—

(1) shall remain available to a project for 2 years after the fiscal year for which the amount is made available or appropriated; and

(2) that remains unobligated at the end of the period described in paragraph (1) shall be added to the amount made available in the following fiscal year.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 800; Pub. L. 105–178, title III, § 3008(a), (c), June 9, 1998, 112 Stat. 348; Pub. L. 105–206, title IX, § 9009(f), July 22, 1998, 112 Stat. 855; Pub. L. 109–59, title III, § 3010(a), Aug. 10, 2005, 119 Stat. 1572.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5308(a) ..... | 49 App.:1607a–2(b) (words before ''and shall be subject to''). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9B(a), (b); added Apr. 2, 1987, Pub. L. 100–17, § 313, 101 Stat. 229. |
| 5308(b)(1) .... | 49 App.:1607a–2(a). | |
| 5308(b)(2) .... | 49 App.:1607a–2(b) (words after ''maintenance items)''). | |

In subsection (a), the words ''The Secretary of Transportation may make'' are added for clarity and consistency in this chapter. The words ''the purpose of'' are omitted as surplus.

In subsection (b)(1), the cross-reference to 49 App.:1617(b) and (c) is corrected because it no longer is correct because of the restatement of 49 App.:1617 by section 3025 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2112), restated as section 5338 of the revised title.

In subsection (b)(2), the words ''the limitations contained in'' and ''applicable to such projects'' are omitted as surplus.

AMENDMENTS

2005—Pub. L. 109–59 substituted ''grant program'' for ''formula grant program'' in section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (g) relating to definitions, authority of Secretary, application for grants, apportionment of funds, additional requirements, and availability of funds.

1998—Pub. L. 105–178, § 3008(a), amended section catchline and text generally. Prior to amendment, text read as follows:

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to be used only for capital projects (including capital maintenance items).

''(b) APPLICATION OF OTHER SECTIONS.—(1) Sections 5307(a)–(d), (h)–(*l*), and (n) and 5336(a)–(c), (f), (g), and (j) of this title apply to amounts made available under section 5338(a) of this title to carry out this section.

''(2) Sections 5307(e) and 5336(d) of this title apply to grants under this section.''

Subsec. (e)(2). Pub. L. 105–178, § 3008(c), as added by Pub. L. 105–206, substituted ''35 percent'' for ''$50,000,000''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM

Pub. L. 109–59, title III, § 3045, Aug. 10, 2005, 119 Stat. 1705, provided that:

''(a) ESTABLISHMENT.—The Secretary [of Transportation] shall establish a national fuel cell bus technology development program (in this section referred to as the 'program') to facilitate the development of

commercially viable fuel cell bus technology and related infrastructure.

''(b) GENERAL AUTHORITY.—The Secretary may enter into grants, contracts, and cooperative agreements with no more than 3 geographically diverse nonprofit organizations and recipients under chapter 53 of title 49, United States Code, to conduct fuel cell bus technology and infrastructure projects under the program.

''(c) GRANT CRITERIA.—In selecting applicants for grants under the program, the Secretary shall consider the applicant's—

''(1) ability to contribute significantly to furthering fuel cell technology as it relates to transit bus operations, including hydrogen production, energy storage, fuel cell technologies, vehicle systems integration, and power electronics technologies;

''(2) financing plan and cost share potential;

''(3) fuel cell technology to ensure that the program advances different fuel cell technologies, including hydrogen-fueled and methanol-powered liquid-fueled fuel cell technologies, that may be viable for public transportation systems; and

''(4) other criteria that the Secretary determines are necessary to carry out the program.

''(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under the program. Grant recipients shall be selected on a competitive basis. The Secretary shall give priority consideration to applicants that have successfully managed advanced transportation technology projects, including projects related to hydrogen and fuel cell public transportation operations for a period of not less than 5 years.

''(e) FEDERAL SHARE.—The Federal share of costs of the program shall be provided from funds made available to carry out this section. The Federal share of the cost of a project carried out under the program shall not exceed 50 percent of such cost.

''(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to—

''(1) all terms and conditions applicable to a grant made under section 5309 of title 49, United States Code; and

''(2) such other terms and conditions as are determined by the Secretary.''

CLEAN FUEL VEHICLES

Pub. L. 105–178, title III, § 3036, June 9, 1998, 112 Stat. 387, provided that:

''(a) STUDY.—The Comptroller General shall conduct a study of the various low and zero emission fuel technologies for transit vehicles, including compressed natural gas, liquefied natural gas, biodiesel fuel, battery, alcohol based fuel, hybrid electric, fuel cell, and clean diesel to determine—

''(1) the status of the development and use of such technologies;

''(2) the environmental benefits of such technologies under the Clean Air Act [42 U.S.C. 7401 et seq.]; and

''(3) the cost of such technologies and any associated equipment.

''(b) REPORT.—Not later than January 1, 2000, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study, together with recommendations for incentives to encourage the use of low and zero emission fuel technology for transit vehicles.''

## § 5309. Capital investment grants

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ALTERNATIVES ANALYSIS.—The term ''alternatives analysis'' means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

(A) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

(B) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

(C) the selection of a locally preferred alternative; and

(D) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.

(2) MAJOR NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term ''major new fixed guideway capital project'' means a new fixed guideway capital project for which the Federal assistance provided or to be provided under this section is $75,000,000 or more.

(3) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term ''new fixed guideway capital project'' means a minimum operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.

(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist State and local governmental authorities in financing—

(1) new fixed guideway capital projects under subsections (d) and (e), including the acquisition of real property, the initial acquisition of rolling stock for the systems, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of alternatives analysis or preliminary engineering;

(2) capital projects to modernize existing fixed guideway systems;

(3) capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities, including programs of bus and bus-related projects for assistance to subrecipients that are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and

(4) the development of corridors to support new fixed guideway capital projects under subsections (d) and (e), including protecting rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes and park and ride lots, and other nonvehicular capital improvements that the Secretary may decide would result in increased public transportation usage in the corridor.

(c) GRANT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

(A) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

(B) the applicant has, or will have—

(i) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

(ii) satisfactory continuing control over the use of the equipment or facilities; and

(iii) the capability and willingness to maintain the equipment or facilities.

(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

(3) GRANTEE REQUIREMENTS.—The Secretary shall require that any grant awarded under this section to a recipient be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

(d) MAJOR CAPITAL INVESTMENT GRANTS OF $75,000,000 OR MORE.—

(1) FULL FUNDING GRANT AGREEMENT.—

(A) IN GENERAL.—A major new fixed guideway capital project shall be carried out through a full funding grant agreement.

(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving assistance for a major new fixed guideway capital project that—

(i) is authorized for final design and construction; and

(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

(2) APPROVAL OF GRANTS.—The Secretary may approve a grant under this section for a major new fixed guideway capital project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3), determines that the project is—

(A) based on the results of an alternatives analysis and preliminary engineering;

(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use policies and future patterns; and

(C) supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension, and maintain and operate the entire public transportation system without requiring a reduction in existing public transportation services or level of service to operate the proposed project.

(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

(B) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

(C) the direct and indirect costs of relevant alternatives;

(D) factors such as—

(i) congestion relief;

(ii) improved mobility;

(iii) air pollution;

(iv) noise pollution;

(v) energy consumption; and

(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

(E) reductions in local infrastructure costs and other benefits achieved through compact land use development, such as positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

(F) the cost of suburban sprawl;

(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

(H) population density and current transit ridership in the transportation corridor;

(I) the technical capability of the grant recipient to construct the project;

(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

(K) other factors that the Secretary determines to be appropriate to carry out this subsection.

(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the proposed project.

(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

(ii) existing grant commitments;

(iii) the degree to which financing sources are dedicated to the proposed purposes;

(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed

project or other public transportation purpose; and

(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

(C) CONSIDERATION OF FISCAL CAPACITY OF STATE AND LOCAL GOVERNMENTS.—If the Secretary gives priority to financing projects under this subsection that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

(5) PROJECT ADVANCEMENT AND RATINGS.—

(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to each project justification criteria[1] in calculating the overall project rating.

(6) POLICY GUIDANCE.—

(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new fixed guideway capital project review and evaluation process and criteria—

(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005; and

(ii) each time significant changes are made by the Secretary to the process and criteria, but not less frequently than once every 2 years.

(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

(i) invite public comment to the policy guidance published under subparagraph (A); and

(ii) publish a response to the comments received under clause (i).

(e) CAPITAL INVESTMENT GRANTS LESS THAN $75,000,000.—

(1) IN GENERAL.—

(A) APPLICABILITY OF REQUIREMENTS.—Except as provided by subparagraph (B), a new fixed guideway capital project shall be subject to the requirements of this subsection if the Federal assistance provided or to be provided under this section for the project is less than $75,000,000 and the total estimated net capital cost of the project is less than $250,000,000.

(B) PROJECTS RECEIVING LESS THAN $25,000,000 IN FEDERAL ASSISTANCE.—If the assistance provided under this section with respect to a new fixed guideway capital project is less than $25,000,000, the requirements of this subsection shall not apply to the project until such date as the final regulation to be issued under paragraph (9) takes effect.

(2) SELECTION CRITERIA.—The Secretary may provide Federal assistance under this subsection with respect to a proposed project only if the Secretary finds that the project is—

(A) based on the results of planning and alternatives analysis;

(B) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

(C) supported by an acceptable degree of local financial commitment.

(3) PLANNING AND ALTERNATIVES.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

(4) PROJECT JUSTIFICATION.—For purposes of making the finding under paragraph (2)(B), the Secretary shall—

(A) determine the degree to which the project is consistent with local land use policies and is likely to achieve local developmental goals;

(B) determine the cost effectiveness of the project at the time of the initiation of revenue service;

(C) determine the degree to which the project will have a positive effect on local economic development;

(D) consider the reliability of the forecasting methods used to estimate costs and ridership associated with the project; and

(E) consider other factors that the Secretary determines appropriate to carry out this subsection.

(5) LOCAL FINANCIAL COMMITMENT.—

(A) IN GENERAL.—For purposes of paragraph (2)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

(B) CONSIDERATION OF FISCAL CAPACITY OF STATE AND LOCAL GOVERNMENTS.—If the Secretary gives priority to financing projects under this subsection that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

(6) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

(A) GENERAL RULE.—A proposed project under this subsection may advance from planning and alternatives analysis to project

[1] So in original. Probably should be ''criterion''.

development and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements.

(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required by this subsection and shall give comparable, but not necessarily equal, numerical weight to each project justification criteria[1] in calculating the overall project rating.

(7) CONTENTS OF PROJECT CONSTRUCTION GRANT AGREEMENT.—A project construction grant agreement under this subsection shall specify the scope of the project to be constructed, the estimated net project cost of the project, the schedule under which the project shall be constructed, the maximum amount of funding to be obtained under this subsection, the proposed schedule for obligation of future Federal grants, and the sources of funding from other than the Government. The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

(8) LIMITATION ON ENTRY INTO CONSTRUCTION GRANT AGREEMENT.—The Secretary may enter into a project construction grant agreement for a project under this subsection only if the project is authorized for construction and has been rated as high, medium-high, or medium under this subsection.

(9) REGULATIONS.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.

(10) FIXED GUIDEWAY CAPITAL PROJECT.—In this subsection, the term ''fixed guideway capital project'' includes a corridor-based bus capital project if—

(A) a substantial portion of the project operates in a separate right-of-way dedicated for public transit use during peak hour operations; or

(B) the project represents a substantial investment in a defined corridor as demonstrated by features such as park-and-ride lots, transit stations, bus arrival and departure signage, intelligent transportation systems technology, traffic signal priority, off-board fare collection, advanced bus technology, and other features that support the long-term corridor investment.

(11) IMPACT REPORT.—

(A) IN GENERAL.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Federal Transit Administration shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects.

(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

(f) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005. Subsection (e) also does not apply to projects for which the Secretary has received an application for final design before such date of enactment.

(g) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

(1) LETTERS OF INTENT.—

(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.

(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31 or an administrative commitment.

(2) FULL FUNDING GRANT AGREEMENTS.—

(A) TERMS.—The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

(i) establish the terms of participation by the Government in a project under this section;

(ii) establish the maximum amount of Government financial assistance for the project;

(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

(iv) make timely and efficient management of the project easier according to the law of the United States.

(B) SPECIAL FINANCIAL RULES.—

(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

(C) BEFORE AND AFTER STUDY.—

(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

(I) describes and analyzes the impacts of the new fixed guideway capital project on transit services and transit ridership;

(II) evaluates the consistency of predicted and actual project characteristics and performance; and

(III) identifies sources of differences between predicted and actual outcomes.

(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

(I) SUBMISSION OF PLAN.—Applicants seeking an agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

(cc) collection of data on the transit system 2 years after the opening of the new fixed guideway capital project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the project; and

(dd) analysis of the consistency of predicted project characteristics with the after data.

(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

(3) EARLY SYSTEM WORK AGREEMENTS.—

(A) CONDITIONS.—The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

(i) a full funding grant agreement for the project will be made; and

(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

(B) CONTENTS.—

(i) IN GENERAL.—A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

(ii) PERIOD COVERED.—A work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(iv) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

(4) LIMITATION ON AMOUNTS.—

(A) MAJOR CAPITAL INVESTMENT GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all

outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for major new fixed guideway capital projects may be not more than the greater of the amount authorized under sections 5338(a)(3) and 5338(c) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(A) and (m)(2)(A)(ii) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

(B) OTHER CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all project construction grant agreements and early system work agreements under this subsection for small capital projects described in subsection (e) may be not more than the greater of the amount allocated under subsection (m)(2)(A)(i) for such projects or an amount equivalent to the last fiscal year of funding allocated under such subsection for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by an agreement. The total amount covered by new contingent commitments included in project construction grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

(C) INCLUSION OF CERTAIN COMMITMENTS.—Future obligations of the Government and contingent commitments made against the contingent commitment authority under section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (106 Stat. 2125)[2] for the San Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005, and 2006 shall be charged against section 3032(g)(2) of that Act.

(D) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

(5) NOTIFICATION OF CONGRESS.—At least 60 days before issuing a letter of intent or entering into a full funding grant agreement or project construction grant agreement under this section, the Secretary shall notify, in writing, the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

[2] See References in Text note below.

(h) GOVERNMENT'S SHARE OF NET PROJECT COST.—

(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost. A grant for the project shall be for 80 percent of the net capital project cost, unless the grant recipient requests a lower grant percentage.

(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a new fixed guideway capital project evaluated under subsections (d) and (e) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

(A) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

(4) REMAINDER OF NET PROJECT COST.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section, including paragraph (1) and subsections (d)(4)(B)(v) and (e)(5), shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

(7) LIMITATION ON APPLICABILITY.—This subsection does not apply to projects for which the Secretary has entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005.

(i) UNDERTAKING PROJECTS IN ADVANCE.—

(1) IN GENERAL.—The Secretary may pay the Government's share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of

amounts of the Government and according to all applicable procedures and requirements if—

(A) the State or local governmental authority applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

(2) FINANCING COSTS.—

(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

(j) AVAILABILITY OF AMOUNTS.—

(1) IN GENERAL.—An amount made available or appropriated under section 5338(a)(3)(C)(iii), 5338(a)(3)(C)(iv), 5338(b)(2)(E), or 5338(c) for replacement, rehabilitation, and purchase of buses and related equipment and construction of bus-related facilities or for new fixed guideway capital projects shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period may be used by the Secretary for any purpose under this section.

(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

(k) REPORTS ON NEW STARTS.—

(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate a report that includes—

(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

(B) evaluations and ratings, as required under subsections (d) and (e), for each such project that is authorized by the Federal Public Transportation Act of 2005; and

(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

(2) ANNUAL GAO REVIEW.—The Comptroller General shall—

(A) conduct an annual review of—

(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

(ii) the Secretary's implementation of such processes and procedures; and

(B) report to Congress on the results of such review by May 31 of each year.

(*l*) OTHER REPORTS.—

(1) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit to the committees referred to in subsection (k)(1) a report containing a summary of the results of the studies conducted under subsection (g)(2)(C).

(2) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, and each year thereafter, the Secretary shall submit to the committees referred to in subsection (k)(1) a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing new fixed guideway capital projects.

(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

(i) estimates made at the time projects are approved for entrance into final design;

(ii) costs and ridership when the project commences revenue operation; and

(iii) costs and ridership when the project has been in operation for 2 years.

(C) CONSIDERATIONS.—In making comparisons under subparagraph (B), the Secretary shall consider factors having an impact on costs and ridership not under the control of the contractor. The Secretary shall also consider the role taken by each contractor in the development of the project.

(3) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit to the committees referred to in subsection (k)(1) a report on the suitability of allowing contractors to public transportation agencies that undertake new fixed guideway capital projects under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.

(m) ALLOCATING AMOUNTS.—

(1) FISCAL YEAR 2005.—Of the amounts made available or appropriated for fiscal year 2005 under section 5338(a)(3)—

(A) $1,437,829,600 shall be allocated for new fixed capital projects under subsection (d);

(B) $1,204,684,800 shall be allocated for capital projects for fixed guideway modernization; and

(C) $669,600,000 shall be allocated for capital projects for buses and bus-related equipment and facilities.

(2) FISCAL YEARS 2006 THROUGH 2010 AND OCTOBER 1, 2010, THROUGH MARCH 4, 2011.—The amounts made available or appropriated for fiscal years 2006 through 2010, and during the period beginning October 1, 2010, and ending March 4, 2011, under sections 5338(b) and 5338(c) shall be allocated as follows:

(A) CAPITAL INVESTMENT GRANTS.—Of the amounts appropriated under section 5338(c)—

(i) $200,000,000 for each of fiscal years 2007 through 2010, and $84,931,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be allocated for projects for new fixed guideway capital projects of less than $75,000,000 in accordance with subsection (e); and

(ii) the remainder shall be allocated for major new fixed guideway capital projects in accordance with subsection (d).

(B) FIXED GUIDEWAY MODERNIZATION.—The amounts made available under section 5338(b)(2)(D) shall be allocated for capital projects for fixed guideway modernization.

(C) BUSES AND BUS-RELATED EQUIPMENT AND FACILITIES.—The amounts made available under section 5338(b)(2)(E) shall be allocated for capital projects for buses and bus-related equipment and facilities.

(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(D) for fiscal year 2006 and each fiscal year thereafter shall be allocated in accordance with section 5337.

(4) PRELIMINARY ENGINEERING AND ALTERNATIVES ANALYSIS.—Not more that 8 percent of the allocation described in paragraph (1)(A) may be expended on alternatives analysis and preliminary engineering.

(5) PRELIMINARY ENGINEERING.—Not more than 8 percent of the allocation described in paragraph (2)(A) may be expended on preliminary engineering.

(6) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

(A) $10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

(B) $15,000,000 shall be available in each of fiscal years 2006 through 2010, and $6,369,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011, for capital projects in Alaska and Hawaii for new fixed guideway ferry systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

(C) $5,000,000 shall be available for each of fiscal years 2006 though 2010, and $2,123,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011, for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998 (42 U.S.C. 3121 note) for docks, waterfront development projects, and related transportation infrastructure.

(7) BUS AND BUS FACILITY GRANTS.—The amounts made available under paragraphs (1)(C) and (2)(C) shall be allocated as follows:

(A) FERRY BOAT SYSTEMS.—

(i) FISCAL YEARS 2006 THROUGH 2010.—$10,000,000 shall be available in each of fiscal years 2006 through 2010 for ferry boats or ferry terminal facilities. Of such funds, the following amounts shall be set aside for each fiscal year:

(I) $2,500,000 for the San Francisco Water Transit Authority.

(II) $2,500,000 for the Massachusetts Bay Transportation Authority Ferry System.

(III) $1,000,000 for the Camden, New Jersey Ferry System.

(IV) $1,000,000 for the Governor's Island, New York Ferry System[3]

(V) $1,000,000 for the Philadelphia Penn's Landing Ferry Terminal.

(VI) $1,000,000 for the Staten Island Ferry.

(VII) $650,000 for the Maine State Ferry Service, Rockland.

(VIII) $350,000 for the Swans Island, Maine Ferry Service.

(ii) SPECIAL RULE FOR OCTOBER 1, 2010, THROUGH MARCH 4, 2011.—$4,246,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011, for ferry boats or ferry terminal facilities. The Secretary shall set aside a portion of such amount in accordance with clause (i), except that the Secretary shall set aside $^{155}/_{365}$ths of each dollar amount specified in subclauses (I) through (VIII).

(B) FUEL CELL BUS PROGRAM.—The following amounts shall be set aside for the national fuel cell bus technology development program under section 3045 of the Federal Public Transportation Act of 2005:

(i) $11,250,000 for fiscal year 2006.

(ii) $11,500,000 for fiscal year 2007.

(iii) $12,750,000 for fiscal year 2008.

(iv) $13,500,000 for fiscal year 2009.

(v) $13,500,000 for fiscal year 2010.

$5,732,000 for the period beginning October 1, 2010 and ending March 4, 2011[3]

(C) PROJECTS NOT IN URBANIZED AREAS.—Not less than 5.5 percent shall be available in each fiscal year, and during the period beginning October 1, 2010, and ending March 4, 2011, for projects that are not in urbanized areas.

(D) INTERMODAL TERMINALS.—Not less than $35,000,000 shall be available in each fiscal year, and not less than $14,863,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011, for intermodal terminal projects, including the intercity bus portion of such projects.

(E) BUS TESTING.—$3,000,000 shall be available in each fiscal year, and $1,273,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011, for bus testing under section 5318.

(8) BUS AND BUS FACILITY GRANT CONSIDERATIONS.—In making grants under paragraphs

[3] So in original. Probably should be followed by a period.

(1)(C) and (2)(C), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 800; Pub. L. 104–287, § 5(9), (12), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 102–240, title III, § 3049(a), as added Pub. L. 105–130, § 8, Dec. 1, 1997, 111 Stat. 2559; Pub. L. 105–178, title III, § 3009(a), (c)–(h)(1), (3)(D), (i)–(k), June 9, 1998, 112 Stat. 352–357; Pub. L. 105–206, title IX, § 9009(g), (h)(3), July 22, 1998, 112 Stat. 855, 856; Pub. L. 106–69, title III, § 347, Oct. 9, 1999, 113 Stat. 1024; Pub. L. 106–346, § 101(a) [title III, § 380], Oct. 23, 2000, 114 Stat. 1356, 1356A–42; Pub. L. 106–554, § 1(a)(4) [div. A, § 1101], Dec. 21, 2000, 114 Stat. 2763, 2763A–201; Pub. L. 108–88, § 8(a), Sept. 30, 2003, 117 Stat. 1121; Pub. L. 108–202, § 9(a), Feb. 29, 2004, 118 Stat. 484; Pub. L. 108–224, § 7(a), Apr. 30, 2004, 118 Stat. 632; Pub. L. 108–263, § 7(a), June 30, 2004, 118 Stat. 704; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 108–280, § 7(a), July 30, 2004, 118 Stat. 882; Pub. L. 108–310, § 8(a), Sept. 30, 2004, 118 Stat. 1154; Pub. L. 109–14, § 7(a), May 31, 2005, 119 Stat. 330; Pub. L. 109–20, § 7(a), July 1, 2005, 119 Stat. 352; Pub. L. 109–35, § 7(a), July 20, 2005, 119 Stat. 386; Pub. L. 109–37, § 7(a), July 22, 2005, 119 Stat. 401; Pub. L. 109–40, § 7(a), July 28, 2005, 119 Stat. 417; Pub. L. 109–59, title III, § 3011(a), Aug. 10, 2005, 119 Stat. 1573; Pub. L. 110–244, title II, § 201(d), June 6, 2008, 122 Stat. 1610; Pub. L. 111–147, title IV, § 433, Mar. 18, 2010, 124 Stat. 88; Pub. L. 111–322, title II, § 2303, Dec. 22, 2010, 124 Stat. 3527.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5309(a) (1)–(5). | 49 App.:1602(a)(1)(A). | July 9, 1964, Pub. L. 88–365, § 3(a)(1)(A), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§ 102, 104, 106, 88 Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95–599, § 302(a), 92 Stat. 2735; Jan. 6, 1983, Pub. L. 97–424, § 313, 96 Stat. 2152. |
| | 49 App.:1602(a)(1)(B), (C), (D) (1st, 3d sentences). | July 9, 1964, Pub. L. 88–365, § 3(a)(1)(B)–(D), (2)(B), (3), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§ 102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95–599, § 302(a), 92 Stat. 2735, 2736. |
| 5309(a)(6) .... | 49 App.:1602(a)(1)(E). | July 9, 1964, Pub. L. 88–365, § 3(a)(1)(E), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§ 102, 104, 106, 88 Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95–599, § 302(a), 92 Stat. 2736; restated Dec. 18, 1991, Pub. L. 102–240, § 3006(a), 105 Stat. 2089. |
| 5309(a)(7) .... | 49 App.:1602(a)(1)(F). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(a)(1)(F); added Dec. 18, 1991, Pub. L. 102–240, § 3006(b), 105 Stat. 2089. |

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

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5309(b)(1) .... | 49 App.:1602(b) (1st sentence). | July 9, 1964, Pub. L. 88–365, § 3(b), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 963; Nov. 6, 1978, Pub. L. 95–599, § 302(b), 92 Stat. 2737. |
| 5309(b)(2) .... | 49 App.:1602(a)(2)(B). | |
| 5309(b)(3) .... | 49 App.:1602(b) (8th, last sentences). | |
| 5309(b)(4), (5). | 49 App.:1602(b) (2d–6th sentences). | |
| 5309(c) ..... | 49 App.:1602(a)(5). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(a)(5); added Jan. 6, 1983, Pub. L. 97–424, § 304(b), 96 Stat. 2149. |
| 5309(d) ..... | 49 App.:1602(a)(2)(A). | July 9, 1964, Pub. L. 88–365, § 3(a)(2)(A), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§ 102, 104, 106, 88 Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95–599, § 302(a), 92 Stat. 2736; Jan. 6, 1983, Pub. L. 97–424, § 304(a), 96 Stat. 2149; restated Apr. 2, 1987, Pub. L. 100–17, § 309(e), 101 Stat. 227. |
| | 49 App.:1602(a)(3). | |
| 5309(e)(1) .... | 49 App.:1602 (note). | Apr. 2, 1987, Pub. L. 100–17, § 303(b), 101 Stat. 223. |
| 5309(e) (2)–(7). | 49 App.:1602(i). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(i); added Apr. 2, 1987, Pub. L. 100–17, § 303(a), 101 Stat. 223; restated Dec. 18, 1991, Pub. L. 102–240, § 3010, 105 Stat. 2093. |
| 5309(f)(1) .... | 49 App.:1602(a)(1)(D) (last sentence). | |
| 5309(f)(2) .... | 49 App.:1602(a)(1)(D) (2d sentence). | |
| 5309(g) ..... | 49 App.:1602(a)(4). | July 9, 1964, Pub. L. 88–365, § 3(a)(4), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§ 102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95–599, § 302(a), 92 Stat. 2736; Jan. 6, 1983, Pub. L. 97–424, § 305, 96 Stat. 2150; Apr. 2, 1987, Pub. L. 100–17, § 302, 101 Stat. 223; Dec. 18, 1991, Pub. L. 102–240, § 3007, 105 Stat. 2090. |
| 5309(h) ..... | 49 App.:1603(a). | July 9, 1964, Pub. L. 88–365, § 4(a), 78 Stat. 304; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, § 704(a), 82 Stat. 535; Oct. 15, 1970, Pub. L. 91–453, § 3(a), 84 Stat. 965; Aug. 13, 1973, Pub. L. 93–87, § 301(a), 87 Stat. 295; Nov. 26, 1974, Pub. L. 93–503, § 103(b), 88 Stat. 1571; Nov. 6, 1978, Pub. L. 95–599, § 303(b), 92 Stat. 2737; Jan. 6, 1983, Pub. L. 97–424, § 302(b), 96 Stat. 2141; Dec. 18, 1991, Pub. L. 102–240, § 3006(f), (g), 105 Stat. 2089. |
| 5309(i) ..... | 49 App.:1602(c) (2d, last sentences). | July 9, 1964, Pub. L. 88–365, § 3(c), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 964. |
| 5309(j) ..... | 49 App.:1602(b) (7th sentence). | |
| 5309(k) ..... | 49 App.:1602(c) (1st sentence). | |
| 5309(*l*) ..... | 49 App.:1603(d). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 4(d); added Dec. 18, 1991, Pub. L. 102–240, § 3006(h)(2), 105 Stat. 2090. |

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

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5309(m)(1) .. | 49 App.:1602(k)(1). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(k)(1); added Apr. 2, 1987, Pub. L. 100–17, §305, 101 Stat. 224; restated Dec. 18, 1991, Pub. L. 102–240, §3006(d)(1), 105 Stat. 2089. |
| 5309(m)(2) .. | 49 App.:1602(k)(3). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(k)(3); added Dec. 18, 1991, Pub. L. 102–240, §3006(d)(2), 105 Stat. 2089. |
| 5309(m)(3) .. | 49 App.:1602(j). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(j); added Apr. 2, 1987, Pub. L. 100–17, §304, 101 Stat. 223. |
| 5309(m)(4) .. | 49 App.:1602(k)(2). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(k)(2); added Apr. 2, 1987, Pub. L. 100–17, §305, 101 Stat. 224. |
| 5309(n) ..... | 49 App.:1602(*l*). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(*l*); added Apr. 2, 1987, Pub. L. 100–17, §306(a), 101 Stat. 224; Dec. 18, 1991, Pub. L. 102–240, §3006(e), 105 Stat. 2089. |
| 5309(*o*) ..... | 49 App.:1602(n). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(n); added Oct. 6, 1992, Pub. L. 102–388, §502(d), 106 Stat. 1566. |

In subsection (a), before clause (1), the words ''in accordance with the provisions of this chapter'' are omitted as surplus. The words ''and on such terms and conditions as the Secretary may prescribe'' and 49 App.:1602(a)(1)(D) (3d sentence) are omitted as unnecessary because of section 5334(a) of the revised title and 49:322(a). The words ''(directly, through the purchase of securities or equipment trust certificates, or otherwise)'' and ''and agencies thereof'' are omitted as surplus. In clause (1), the word ''detailed'' is omitted as surplus. In clause (2), the words ''capital projects'' are substituted for ''the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service'' for clarity and consistency in this section. The words ''Eligible facilities and equipment may include personal property such as buses and other rolling stock, and rail and bus facilities, and real'' are omitted as surplus. The text of 49 App.:1602(a)(1)(B) (last sentence) is omitted as obsolete because former 49 App.:1604(a)(4) is executed and is not included in this restatement. In clause (3), the words ''the capital costs of'' are added for clarity and consistency in this section. The words ''highway and'' are omitted as surplus.

In subsection (b)(1), the word ''finance'' is omitted as surplus.

In subsection (b)(2), the words ''for real property acquisition'' are omitted as surplus. The words ''for an approved project'' are added for clarity and consistency. The words ''which shall be in lieu of the determination required by subparagraph (A)'', ''real'', and ''connection with'' are omitted as surplus.

In subsection (b)(3), the word ''comprehensive'' is omitted as surplus. The words ''by the project'' are added for clarity. The words ''a period of'' and ''longer'' are omitted as surplus.

In subsection (b)(4), the words ''a period not exceeding'' and ''Each agreement shall provide that'' are omitted as surplus. The words ''shall be made within the 10-year period'' are substituted for ''shall not be later than 10 years following the fiscal year in which the agreement is made'' to eliminate unnecessary words. The words ''if any, over the original cost of the real property'' are omitted as surplus. The words ''deposit in'' are substituted for ''credit to'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(5), the word ''actual'' is omitted as surplus. The words ''deposited in'' are substituted for ''credited to'' for consistency in the revised title and with other titles of the Code.

In subsection (c), before clause (1), the words ''grant or loan'' are substituted for ''assistance'' for consistency in the revised section. In clause (1), the words ''rail carrier'' are substituted for ''railroad'' for consistency in the revised title and with other titles of the Code.

In subsection (d), before clause (1), the words ''Except as provided in subsections (b)(2) and (e) of this section'' are added for clarity. In clause (1), the words ''through operation or lease or otherwise'' are omitted as surplus.

In subsection (e)(2), before clause (A), the word ''existing'' is added for clarity and consistency.

In subsection (e)(6)(C), the words ''Part A of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1915)'' are substituted for ''the Federal-Aid Highway Act of 1991'' because the Federal-Aid Highway Act of 1991 was title I of H.R. 1531, that was not enacted into law but contained predecessor provisions to Part A of title I of H.R. 2950, enacted into law as the Intermodal Surface Transportation Efficiency Act of 1991.

In subsection (f)(1), the words ''or entity'' are omitted as surplus.

In subsection (f)(2), before clause (A), the words ''for a project under subsection (a)(5) of this section'' are added for clarity. In clause (B), the words ''whether publicly or privately owned'' are omitted as surplus.

In subsection (g)(1)(A), the words ''The letter shall be regarded as an intention to obligate'' are omitted as surplus.

In subsection (g)(1)(D), the words ''pursuant to such a letter of intent'' are omitted as surplus.

In subsection (g)(2)(A)(i), the words ''and conditions'' are omitted as being included in ''terms''.

In subsection (g)(4), the word ''issued'' is omitted as surplus. The text of 49 App.:1602(a)(4)(E) (3d sentence) is omitted as executed. The text of 49 App.:1602(a)(4)(E) (4th and last sentences) is omitted as obsolete.

In subsection (h), the words ''nature and extent of'' are omitted as surplus. The words ''net project cost'' are substituted for ''what portion of the cost of a project to be assisted under section 1602 of this Appendix cannot be reasonably financed from revenues—which portion shall hereinafter be called 'net project cost' '' because of the definition of ''net project cost'' in section 5302(a) of the revised title. The words ''Except as provided in paragraph (2) of this subsection'' are added for clarity. The words ''Such remainder may be provided in whole or in part from other than public sources and any public or private'', ''solely'', and ''at any time'' are omitted as surplus. The words ''shall be deemed'' are omitted as unnecessary since the text is a statement of a legal conclusion.

In subsection (i), before clause (1), the words ''Except for a loan under subsection (b) of this section'' are added for clarity. The words ''made under this section'' and ''at a rate'' are omitted as surplus. In clause (1), the word ''market'' is omitted as surplus. In clause (2), the words ''under the program'' are omitted as surplus.

In subsection (j), the words ''loan and interest'' are substituted for ''principal and accrued interest on the loan then outstanding'' to eliminate unnecessary words.

In subsection (m)(1)(B) and (3), the word ''existing'' is added for clarity and consistency.

In subsection (m)(1), before clause (A), the words ''Subject to paragraph (3)'' are omitted as surplus. The reference to fiscal year 1992 is omitted as obsolete.

In subsection (m)(3), before clause (A), the words ''Not later than 30 days after April 2, 1987'' are omitted as executed. The words ''prepare and'' are omitted as surplus. The text of 49 App.:1602(j)(1) is omitted as obsolete because 49 App.:1602(k)(1) was restated by section 3006(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2089) and clause (D) was not carried forward.

In subsection (m)(4), the text of 49 App.:1602(k)(2)(B) is omitted as expired.

In subsection (n)(2), the words ''Subject to the provisions of this paragraph'', ''the Federal share of which the Secretary is authorized to pay under this subsection'', and ''actually'' are omitted as surplus.

PUB. L. 104–287, § 5(12)(A)

This amends 49:5309(a) to clarify the restatement of 49 App.:1602(a)(1) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 800).

PUB. L. 104–287, § 5(12)(B)

This amends 49:5309(e)(4)(B) to correct an erroneous cross-reference.

PUB. L. 104–287, § 5(12)(C)

This amends 49:5309(m)(1)(A) to make a conforming amendment.

REFERENCES IN TEXT

The date of enactment of the Federal Public Transportation Act of 2005, referred to in subsecs. (d)(6)(A)(i), (e)(9), (11)(A), (f), (h)(7), and (*l*)(2)(A), (3), is the date of enactment of title III of Pub. L. 109–59, which was approved Aug. 10, 2005.

The National Environmental Policy Act of 1969, referred to in subsec. (g)(3)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is 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.

Section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (g)(4)(C), is section 3032(g)(2) of Pub. L. 102–240, title III, Dec. 18, 1991, 105 Stat. 2125, which is not classified to the Code.

The Federal Public Transportation Act of 2005, referred to in subsec. (k)(1)(B), is title III of Pub. L. 109–59, Aug. 10, 2005, 119 Stat. 1544. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 5101 of this title and Tables.

Section 307(e) of the Denali Commission Act of 1998, referred to in subsec. (m)(6)(C), is section 307(e) of title III of div. C of Pub. L. 105–277, which is set out as a note under section 3121 of Title 42, The Public Health and Welfare.

Section 3045 of the Federal Public Transportation Act of 2005, referred to in subsec. (m)(7)(B), is section 3045 of Pub. L. 109–59, which is set out as a note under section 5308 of this title.

CODIFICATION

Pub. L. 111–322, § 2303(4)–(7), which directed amendment of subpars. (B) to (E) of subsec. (m) of this section without specifying the paragraph to be amended, was executed to subpars. (B) to (E) of par. (7) of subsec. (m), to reflect the probable intent of Congress. See 2010 Amendment notes below.

AMENDMENTS

2010—Subsec. (m)(2). Pub. L. 111–322, § 2303(1)(A), (B), substituted ''March 4, 2011'' for ''December 31, 2010'' in heading and introductory provisions.

Pub. L. 111–147, § 433(1)(A), (B), substituted ''2010 AND OCTOBER 1, 2010, THROUGH DECEMBER 31, 2010'' for ''2009'' in heading and ''2010, and during the period beginning October 1, 2010, and ending December 31, 2010,'' for ''2009'' in introductory provisions.

Subsec. (m)(2)(A)(i). Pub. L. 111–322, § 2303(1)(C), substituted ''$84,931,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$50,000,000 for the period beginning October 1, 2010, and ending December 31, 2010''.

Pub. L. 111–147, § 433(1)(C), substituted ''2010, and $50,000,000 for the period beginning October 1, 2010, and ending December 31, 2010,'' for ''2009''.

Subsec. (m)(6)(B). Pub. L. 111–322, § 2303(2)(A), which directed substitution of ''$6,369,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$3,750,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010'', was executed by making the substitution for ''$3,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010'', to reflect the probable intent of Congress.

Pub. L. 111–147, § 433(2)(A), substituted ''2010, and $3,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010,'' for ''2009''.

Subsec. (m)(6)(C). Pub. L. 111–322, § 2303(2)(B), substituted ''$2,123,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$1,250,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 433(2)(B), substituted ''2010, and $1,250,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010,'' for ''2009''.

Subsec. (m)(7)(A). Pub. L. 111–147, § 433(3)(A), inserted cl. (i) designation and heading, substituted ''$10,000,000 shall be available in each of fiscal years 2006 through 2010'' for ''$10,000,000 shall be available in each of fiscal years 2006 through 2009'' in introductory provisions, redesignated former cls. (i) to (viii) as subcls. (I) to (VIII), respectively, of cl. (i), and added cl. (ii).

Subsec. (m)(7)(A)(ii). Pub. L. 111–322, § 2303(3)(A)(iii), substituted ''155/365ths'' for ''25 percent''.

Pub. L. 111–322, § 2303(3)(A)(ii), which directed substitution of ''$4,246,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$2,500,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010'', was executed by making the substitution for ''$2,500,000 shall be available in the period beginning October 1, 2010, and ending December 31, 2010'', to reflect the probable intent of Congress.

Pub. L. 111–322, § 2303(3)(A)(i), substituted ''March 4, 2011'' for ''December 31, 2010'' in the heading.

Subsec. (m)(7)(B). Pub. L. 111–322, § 2303(4), which directed general amendment of cl. (vi), was executed by substituting ''$5,732,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''(vi) $3,375,000 for the period beginning October 1, 2010, and ending December 31, 2010.'' See Codification note above.

Subsec. (m)(7)(B)(v). Pub. L. 111–147, § 433(3)(B), added cl. (v).

Subsec. (m)(7)(B)(vi). Pub. L. 111–147, § 433(3)(B), added cl. (vi).

Subsec. (m)(7)(C). Pub. L. 111–322, § 2303(5), substituted ''March 4, 2011'' for ''December 31, 2010''. See Codification note above.

Pub. L. 111–147, § 433(3)(C), inserted '', and during the period beginning October 1, 2010, and ending December 31, 2010,'' after ''fiscal year''.

Subsec. (m)(7)(D). Pub. L. 111–322, § 2303(6), substituted ''$14,863,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$8,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010''. See Codification note above.

Pub. L. 111–147, § 433(3)(D), inserted '', and not less than $8,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010,'' after ''year''.

Subsec. (m)(7)(E). Pub. L. 111–322, § 2303(7), substituted ''$1,273,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010''. See Codification note above.

Pub. L. 111–147, § 433(3)(E), inserted '', and $750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010,'' after ''year''.

2008—Subsec. (d)(5)(B). Pub. L. 110–244, § 201(d)(1), substituted ''this subsection and shall give comparable, but not necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating.'' for ''regulation.''

Subsec. (e)(6)(B). Pub. L. 110–244, § 201(d)(2), substituted ''subsection and shall give comparable, but not

necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating.'' for ''subsection.''

Subsec. (m)(2)(A). Pub. L. 110–244, § 201(d)(3), substituted ''Capital'' for ''Major capital'' in heading.

Subsec. (m)(7)(B). Pub. L. 110–244, § 201(d)(4), substituted ''section 3045'' for ''section 3039'' in introductory provisions.

2005—Pub. L. 109–59 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (p) providing for grants and loans to assist State and local governmental authorities in financing capital projects related to fixed guideway systems, capital projects needed for an efficient and coordinated mass transportation system, the capital costs of coordinating mass transportation with other transportation, the introduction of new technology, and mass transportation projects to meet the special needs of elderly individuals and individuals with disabilities.

Subsec. (m)(1). Pub. L. 109–40, § 7(a)(1), substituted ''July 30, 2005'' for ''July 27, 2005'' in introductory provisions.

Pub. L. 109–37, § 7(a)(1), substituted ''July 27, 2005'' for ''July 21, 2005'' in introductory provisions.

Pub. L. 109–35, § 7(a)(1), substituted ''July 21, 2005'' for ''July 19, 2005'' in introductory provisions.

Pub. L. 109–20, § 7(a)(1), substituted ''July 19, 2005'' for ''June 30, 2005'' in introductory provisions.

Pub. L. 109–14, § 7(a)(1), substituted ''June 30, 2005'' for ''May 31, 2005'' in introductory provisions.

Subsec. (m)(2)(B)(iii). Pub. L. 109–40, § 7(a)(2), substituted ''JULY 30, 2005'' for ''JULY 27, 2005'' in heading and ''July 30, 2005'' for ''July 27, 2005'' and ''$8,550,000'' for ''$8,547,000'' in text.

Pub. L. 109–37, § 7(a)(2), substituted ''JULY 27, 2005'' for ''JULY 21, 2005'' in heading and ''July 27, 2005'' for ''July 21, 2005'' and ''$8,547,000'' for ''$8,424,000'' in text.

Pub. L. 109–35, § 7(a)(2), substituted ''JULY 21, 2005'' for ''JULY 19, 2005'' in heading and ''July 21, 2005'' for ''July 19, 2005'' and ''$8,424,000'' for ''$8,320,000'' in text.

Pub. L. 109–20, § 7(a)(2), substituted ''JULY 19, 2005'' for ''JUNE 30, 2005'' in heading and ''July 19, 2005'' for ''June 30, 2005'' and ''$8,320,000'' for ''$7,800,000'' in text.

Pub. L. 109–14, § 7(a)(2), substituted ''JUNE 30, 2005'' for ''MAY 31, 2005'' in heading and ''June 30, 2005'' for ''May 31, 2005'' and ''$7,800,000'' for ''$6,933,333'' in text.

Subsec. (m)(3)(B). Pub. L. 109–40, § 7(a)(3), substituted ''$2,470,000'' for ''$2,465,754'' and ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(a)(3), substituted ''$2,465,754'' for ''$2,430,000'' and ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(a)(3), substituted ''$2,430,000'' for ''$2,400,000'' and ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(a)(3), substituted ''$2,400,000'' for ''$2,250,000'' and ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(a)(3), substituted ''$2,250,000'' for ''$2,000,000'' and ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (m)(3)(C). Pub. L. 109–40, § 7(a)(4), substituted ''$41,506,850'' for ''$41,095,900'' and ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(a)(4), substituted ''$41,095,900'' for ''$40,500,000'' and ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(a)(4), substituted ''$40,500,000'' for ''$40,000,000'' and ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(a)(4), substituted ''$40,000,000'' for ''$37,500,000'' and ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(a)(4), substituted ''$37,500,000'' for ''$33,333,333'' and ''June 30, 2005'' for ''May 31, 2005''.

2004—Subsec. (m)(1). Pub. L. 108–310, § 8(a)(1), inserted ''and for the period of October 1, 2004, through May 31, 2005'' after ''2004'' in introductory provisions.

Pub. L. 108–280, § 7(a)(1)(A), struck out ''2003 and for the period of October 1, 2003, through July 31,'' before ''2004'' in introductory provisions.

Pub. L. 108–263, § 7(a)(1)(A), substituted ''July 31, 2004'' for ''June 30, 2004'' in introductory provisions.

Pub. L. 108–224, § 7(a)(1)(A), substituted ''June 30, 2004'' for ''April 30, 2004'' in introductory provisions.

Pub. L. 108–202, § 9(a)(1)(A), substituted ''April 30, 2004'' for ''February 29, 2004'' in introductory provisions.

Subsec. (m)(1)(A). Pub. L. 108–280, § 7(a)(1)(B), substituted '', except for fiscal year 2004 during which $1,206,506,000 will be available'' for '', except for the period beginning on October 1, 2003, and ending on July 31, 2004, during which $999,489,679 will be available''.

Pub. L. 108–263, § 7(a)(1)(A), (B), substituted ''July 31, 2004'' for ''June 30, 2004'' and ''$999,489,679'' for ''$899,540,711''.

Pub. L. 108–224, § 7(a)(1)(B), substituted ''June 30, 2004, during which $899,540,711 will be available'' for ''April 30, 2004, during which $699,642,775 will be available''.

Pub. L. 108–202, § 9(a)(1)(B), inserted '', except for the period beginning on October 1, 2003, and ending on April 30, 2004, during which $699,642,775 will be available'' after ''modernization''.

Subsec. (m)(1)(B). Pub. L. 108–280, § 7(a)(1)(C), substituted '', except for fiscal year 2004 during which $1,323,794,000 will be available'' for '', except for the period beginning on October 1, 2003, and ending on July 31, 2004, during which $1,096,653,013 will be available''.

Pub. L. 108–263, § 7(a)(1)(A), (C), substituted ''July 31, 2004'' for ''June 30, 2004'' and ''$1,096,653,013'' for ''$986,987,712''.

Pub. L. 108–224, § 7(a)(1)(C), substituted ''June 30, 2004, during which $986,987,712 will be available'' for ''April 30, 2004, during which $767,657,109 will be available''.

Pub. L. 108–202, § 9(a)(1)(C), inserted '', except for the period beginning on October 1, 2003, and ending on April 30, 2004, during which $767,657,109 will be available'' before the semicolon.

Subsec. (m)(1)(C). Pub. L. 108–280, § 7(a)(1)(D), substituted '', except for fiscal year 2004 during which $607,200,000 will be available'' for '', except for the period beginning on October 1, 2003, and ending on July 31, 2004, during which $503,014,600 will be available''.

Pub. L. 108–263, § 7(a)(1)(A), (D), substituted ''July 31, 2004'' for ''June 30, 2004'' and ''$503,014,600'' for ''$452,713,140''.

Pub. L. 108–224, § 7(a)(1)(D), which directed the amendment of subpar. (C) without providing closing quotation marks designating the provisions to be inserted, was executed by substituting ''2003, and ending on June 30, 2004, during which $452,713,140 will be available'' for ''2003 and ending on April 30, 2004, during which $352,110,220 will be available'', to reflect the probable intent of Congress.

Pub. L. 108–202, § 9(a)(1)(D), inserted '', except for the period beginning on October 1, 2003 and ending on April 30, 2004, during which $352,110,220 will be available'' after ''facilities''.

Subsec. (m)(2)(B)(i). Pub. L. 108–280, § 7(a)(2)(A), substituted ''2004'' for ''2003''.

Subsec. (m)(2)(B)(iii). Pub. L. 108–310, § 8(a)(2), added cl. (iii).

Pub. L. 108–280, § 7(a)(2)(B), struck out heading and text of cl. (iii). Text read as follows: ''Of the amounts made available under paragraph (1)(B), $8,615,533 shall be available for the period beginning on October 1, 2003, and ending on July 31, 2004, for capital projects described in clause (i).''

Pub. L. 108–263, § 7(a)(2), inserted cl. (iii) and struck out heading and text of former cl. (iii). Prior to amendment, text read as follows: ''Of the amounts made available under paragraph (1)(B), $7,753,980 shall be available for the period beginning on October 1, 2003, and ending on June 30, 2004, for capital projects described in clause (i).''

Pub. L. 108–224, § 7(a)(2), amended heading and text of cl. (iii) generally. Prior to amendment, text read as follows: ''Of the amounts made available under paragraph (1)(B), $6,066,667 shall be available for the period beginning on October 1, 2003, and ending on April 30, 2004, for capital projects described in clause (i).''

Pub. L. 108–202, § 9(a)(2), amended heading and text of cl. (iii) generally. Prior to amendment, text read as follows: ''Of the amounts made available under paragraph (1)(B), $4,333,333 shall be available for the period of October 1, 2003, through February 29, 2004, for capital projects described in clause (i).''

Subsec. (m)(3)(B). Pub. L. 108–310, § 8(a)(3), inserted ''(and $2,000,000 shall be available for the period October 1, 2004, through May 31, 2005)'' after ''2004''.

Pub. L. 108–280, § 7(a)(3), substituted ''2004'' for ''2003 (and $2,485,250 shall be available for the period October 1, 2003, through July 31, 2004)''.

Pub. L. 108–263, § 7(a)(3), substituted ''$2,485,250'' for ''$2,236,725'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, § 7(a)(3), substituted ''$2,236,725'' for ''$1,750,000'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, § 9(a)(3), substituted ''$1,750,000'' for ''$1,250,000'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (m)(3)(C). Pub. L. 108–310, § 8(a)(4), inserted '', and $33,333,333 shall be available for the period October 1, 2004, through May 31, 2005,'' after ''2004)''.

Pub. L. 108–280, § 7(a)(4), substituted ''1999 through 2004'' for ''1999 through 2003'', ''$50,000,000'' for ''$41,420,833'', and ''fiscal year 2004'' for ''the period October 1, 2003, through July 31, 2004''.

Pub. L. 108–263, § 7(a)(4), substituted ''$41,420,833'' for ''$37,278,750'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, § 7(a)(4), substituted ''$37,278,750'' for ''$28,994,583'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, § 9(a)(4), substituted ''$28,994,583 shall be transferred to and administered under section 5309 for buses and bus facilities'' for ''$20,833,334 shall be available'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (*o*)(3). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in introductory provisions.

2003—Subsec. (m)(1). Pub. L. 108–88, § 8(a)(1), inserted ''and for the period of October 1, 2003, through February 29, 2004'' after ''2003''.

Subsec. (m)(2)(B). Pub. L. 108–88, § 8(a)(2), added cl. (iii).

Subsec. (m)(3)(B). Pub. L. 108–88, § 8(a)(3), inserted ''(and $1,250,000 shall be available for the period October 1, 2003, through February 29, 2004)'' after ''2003''.

Subsec. (m)(3)(C). Pub. L. 108–88, § 8(a)(4), inserted ''(and $20,833,334 shall be available for the period October 1, 2003, through February 29, 2004)'' after ''2003''.

2000—Subsec. (g)(4). Pub. L. 106–346 designated existing provisions as subpar. (A) and added subpars. (B) to (G).

Subsec. (g)(4)(D)(2). Pub. L. 106–554 struck out ''light'' before ''rail extension''.

1999—Subsec. (g)(1)(B). Pub. L. 106–69 inserted ''and the House and Senate Committees on Appropriations'' after ''Committee on Banking, Housing, and Urban Affairs of the Senate''.

1998—Pub. L. 105–178, § 3009(a), substituted ''Capital investment'' for ''Discretionary'' in section catchline.

Subsec. (a)(1)(E) to (H). Pub. L. 105–178, § 3009(c), added subpars. (E) and (F), redesignated former subpars. (F) and (G) as (G) and (H), respectively, and struck out former subpar. (E) which read as follows: ''transportation projects that enhance urban economic development or incorporate private investment, including commercial and residential development, because the projects—

''(i) enhance the effectiveness of a mass transportation project and are related physically or functionally to that mass transportation project; or

''(ii) establish new or enhanced coordination between mass transportation and other transportation;''.

Subsec. (c). Pub. L. 105–178, § 3009(d), amended subsec. (c) generally, substituting ''[Reserved.]'' for former heading and text which read as follows:

''(c) CONSIDERATION OF DECREASED COMMUTER RAIL TRANSPORTATION.—The Secretary of Transportation shall consider the adverse effect of decreased commuter rail transportation when deciding whether to approve a grant or loan under this section to acquire a rail line and all related facilities—

''(1) owned by a rail carrier subject to reorganization under title 11; and

''(2) used to provide commuter rail transportation.''

Subsec. (e). Pub. L. 105–178, § 3009(k)(1), as added by Pub. L. 105–206, § 9009(g), in par. (3)(C), substituted ''suburban sprawl'' for ''urban sprawl'', and in par. (6), substituted ''or 'not recommended', based'' for ''or not 'recommended', based'' in second sentence and inserted ''of the'' before ''criteria established'' in last sentence.

Pub. L. 105–178, § 3009(e), reenacted heading without change and amended text of subsec. (e) generally. Prior to amendment, subsec. (e) related to, in par. (1), applicability of subsection to projects, in par. (2), approval of grants or loans for capital projects, in par. (3), criteria for making approval decisions, in par. (4), issuance of guidelines on evaluation of alternatives, project justification, and degree of local financial commitment, in par. (5), advancement of project from alternatives analysis to preliminary engineering, in par. (6), exemptions from requirements of subsection, and in par. (7), requirement of full financing agreement.

Subsec. (f). Pub. L. 105–178, § 3009(h)(1), amended subsec. (f) generally, substituting ''[Reserved.]'' for former heading and text which read as follows:

''(f) REQUIRED PAYMENTS AND ELIGIBLE COSTS OF PROJECTS THAT ENHANCE URBAN ECONOMIC DEVELOPMENT OR INCORPORATE PRIVATE INVESTMENT.—(1) Each grant or loan under subsection (a)(5) of this section shall require that a person making an agreement to occupy space in a facility pay a reasonable share of the costs of the facility through rental payments and other means.

''(2) Eligible costs for a project under subsection (a)(5) of this section—

''(A) include property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; but

''(B) do not include construction of a commercial revenue-producing facility or a part of a public facility not related to mass transportation.''

Subsec. (g). Pub. L. 105–178, § 3009(f)(1), substituted ''Funding'' for ''Financing'' in heading.

Subsec. (g)(1)(B). Pub. L. 105–178, § 3009(f)(3), substituted ''At least 60 days'' for ''At least 30 days'' and ''letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project'' for ''issuance of the letter'' and inserted ''or entering into a full funding grant agreement'' after ''subparagraph (A) of this paragraph''.

Subsec. (g)(2)(A), (B), (3)(A)(i). Pub. L. 105–178, § 3009(f)(2), substituted ''full funding'' for ''full financing''.

Subsec. (g)(4). Pub. L. 105–178, § 3009(k)(2), as added by Pub. L. 105–206, § 9009(g), substituted ''5338(b) of this title for new fixed guideway systems and extensions to existing fixed guideway systems and the amount appropriated under section 5338(h)(5) or an amount equivalent to the last 2 fiscal years of funding authorized under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems'' for ''5338(a) of this title to carry out this section or an amount equivalent to the total authorizations under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems for fiscal years 2002 and 2003''.

Pub. L. 105–178, § 3009(f)(2), (4), substituted ''full funding'' for ''full financing'' before ''grant agreements'' in two places and ''an amount equivalent to the total authorizations under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems for fiscal years 2002 and 2003'' for ''50 percent of the uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund (including amounts received from taxes and interest earned that are more than amounts previously obligated)''.

Subsec. (m). Pub. L. 105–178, § 3009(k)(3), as added by Pub. L. 105–206, § 9009(g), substituted ''5338(b)'' for ''5338'' in introductory provisions of par. (1), added par. (2) and struck out former par. (2) relating to limitation on amounts available for activities other than final design and construction, redesignated par. (4) as (3)(C), added pars. (3)(D) and (4), and struck out par. (5) relating to funding for ferry boat systems.

Pub. L. 105–178, § 3009(g), reenacted heading without change and amended text of subsec. (m) generally, sub-

stituting provisions allocating amounts for fiscal years 1998 to 2003 for provisions allocating amounts for each fiscal year ending Sept. 30 from 1993 to 1997 and for period of Oct. 1, 1997 to Mar. 31, 1998.

Subsec. (n)(2). Pub. L. 105–178, § 3009(h)(3)(D), as added by Pub. L. 105–206, § 9009(h)(3), substituted ''in a manner satisfactory'' for ''in a way satisfactory''.

Subsec. (*o*). Pub. L. 105–178, § 3009(i), added subsec. (*o*) relating to reports.

Subsec. (p). Pub. L. 105–178, § 3009(j), added subsec. (p).

1997—Subsec. (m)(1). Pub. L. 102–240, § 3049(a), as added by Pub. L. 105–130, inserted '', and for the period of October 1, 1997, through March 31, 1998'' after ''1997''.

1996—Subsec. (a). Pub. L. 104–287, § 5(12)(A), designated existing provisions as par. (1), redesignated former pars. (1) to (7) as subpars. (A) to (G) of par. (1), respectively, and former subpars. (A) and (B) of par. (5) as subcls. (i) and (ii) of subpar. (E), respectively, and added par. (2).

Subsec. (e)(4)(B). Pub. L. 104–287, § 5(12)(B), substituted ''paragraph (2)'' for ''paragraph (1)(B)''.

Subsec. (g)(1)(B). Pub. L. 104–287, § 5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

Subsec. (m)(1)(A). Pub. L. 104–287, § 5(12)(C), inserted ''rail'' before ''fixed guideway modernization''.

Subsec. (m)(3). Pub. L. 104–287, § 5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 5(12) of 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.

NON-NEW STARTS SHARE OF PUBLIC TRANSPORTATION ELEMENT OF INTERSTATE MULTI-MODAL PROJECTS

Pub. L. 111–117, div. A, title I, § 173, Dec. 16, 2009, 123 Stat. 3066, provided that: ''Hereafter, for interstate multi-modal projects which are in Interstate highway corridors, the Secretary shall base the rating under section 5309(d) of title 49, United States Code, of the non-New Starts share of the public transportation element of the project on the percentage of non-New Starts funds in the unified finance plan for the multi-modal project: *Provided*, That the Secretary shall base the accounting of local matching funds on the total amount of all local funds incorporated in the unified finance plan for the multi-modal project for the purposes of funding under chapter 53 of title 49, United States Code[,] and title 23, United States Code: *Provided further*, That the Secretary shall evaluate the justification for the project under section 5309(d) of title 49, United States Code, including cost effectiveness, on the public transportation costs and public transportation benefits.''

TRANSIT TUNNELS

Pub. L. 110–244, title II, § 201(p), June 6, 2008, 122 Stat. 1615, provided that: ''In carrying out section 5309(d)(3)(D) of title 49, United States Code, the Secretary of Transportation shall specifically analyze, evaluate, and consider—

''(1) the congestion relief, improved mobility, and other benefits of transit tunnels in those projects which include a transit tunnel; and

''(2) the associated ancillary and mitigation costs necessary to relieve congestion, improve mobility, and decrease air and noise pollution in those projects which do not include a transit tunnel, but where a transit tunnel was one of the alternatives analyzed.''

PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM

Pub. L. 109–59, title III, § 3011(c), Aug. 10, 2005, 119 Stat. 1588, as amended by Pub. L. 111–147, title IV, § 437(b)(1), Mar. 18, 2010, 124 Stat. 92; Pub. L. 111–322, title II, § 2307(b)(1), Dec. 22, 2010, 124 Stat. 3530, provided that:

''(1) ESTABLISHMENT.—The Secretary [of Transportation] may establish and implement a pilot program to demonstrate the advantages and disadvantages of public-private partnerships for certain new fixed guideway capital projects.

''(2) LIMITATION ON THE NUMBER OF FACILITIES.—The Secretary may permit the establishment of 3 public-private partnerships for new fixed guideway capital projects.

''(3) ELIGIBILITY.—To be eligible to participate in the public-private partnership program, a recipient shall submit to the Secretary an application that contains, at a minimum, the following:

''(A) An identification of the new fixed guideway capital project that has not entered into a full funding grant agreement or project construction grant agreement with the Federal Transit Administration.

''(B) A schedule and finance plan for the construction of and operation of the proposed project.

''(C) An analysis of the costs, benefits, and efficiencies of the proposed public-private partnership agreement.

''(4) SELECTION CRITERIA.—The Secretary may approve the application of a recipient under this subsection if the Secretary determines that—

''(A) State and local laws permit public-private agreements for all phases of project development, construction, and operation of the project;

''(B) the recipient is unable to advance the project due to fiscal constraints; and

''(C) the plan implementing the public-private partnership is justified.

''(5) PROGRAM TERM.—The Secretary may approve an application of a recipient for a public-private partnership for fiscal years 2006 through 2010 and the period beginning October 1, 2010, and ending March 4, 2011.

''(6) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act [Aug. 10, 2005], the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report containing an assessment of the costs, benefits, and efficiencies of a public-private partnership program for new fixed guideway capital projects.''

REPORT TO CONGRESS ON USE OF FUNDS UNDER PUB. L. 105–178

Pub. L. 105–200, title IV, § 403(b), July 16, 1998, 112 Stat. 670, provided that: ''Not later than 2 years after the date of the enactment of this Act [July 16, 1998], the Secretary of Transportation, in consultation with the Secretary of Health and Human Services, shall submit to the Committees on Ways and Means and on Transportation and Infrastructure of the House of Representatives and the Committees on Finance and on Environment and Public Works of the Senate a report that—

''(1) describes the manner in which funds made available under section 3037 of the Transportation Equity Act for the 21st Century [Pub. L. 105–178, set out as a note below] have been used;

''(2) describes whether such uses of such funds has improved transportation services for low-income individuals; and

''(3) contains such other relevant information as may be appropriate.''

DOLLAR VALUE OF MOBILITY IMPROVEMENTS

Pub. L. 105–178, title III, § 3010, June 9, 1998, 112 Stat. 357, as amended by Pub. L. 105–206, title IX, § 9009(i), July 22, 1998, 112 Stat. 856, provided that:

''(a) IN GENERAL.—The Secretary [of Transportation] shall not consider the dollar value of mobility improvements, as specified in the report required under section 5309(*o*) (as added by this Act), in evaluating projects under section 5309 of title 49, United States Code, in developing regulations, or in carrying out any other duty of the Secretary.

''(b) STUDY.—

''(1) IN GENERAL.—The Comptroller General shall conduct a study of the dollar value of mobility improvements and the relationship of mobility improvements to the overall transportation justification of a new fixed guideway system or extension to an existing system.

''(2) REPORT.—Not later than January 1, 2000, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study under paragraph (1), including an analysis of the factors relevant to determining the dollar value of mobility improvements.''

JOB ACCESS AND REVERSE COMMUTE GRANTS

Pub. L. 105–178, title III, § 3037, June 9, 1998, 112 Stat. 387, as amended by Pub. L. 105–206, title IX, § 9009(w), July 22, 1998, 112 Stat. 862; Pub. L. 108–88, § 8(*l*), Sept. 30, 2003, 117 Stat. 1124; Pub. L. 108–202, § 9(*l*), Feb. 29, 2004, 118 Stat. 488; Pub. L. 108–224, § 7(*l*), Apr. 30, 2004, 118 Stat. 636; Pub. L. 108–263, § 7(*l*), June 30, 2004, 118 Stat. 707; Pub. L. 108–280, § 7(*l*), July 30, 2004, 118 Stat. 884; Pub. L. 108–310, § 8(*l*), Sept. 30, 2004, 118 Stat. 1157; Pub. L. 109–14, § 7(k), May 31, 2005, 119 Stat. 333; Pub. L. 109–20, § 7(k), July 1, 2005, 119 Stat. 355; Pub. L. 109–35, § 7(k), July 20, 2005, 119 Stat. 388; Pub. L. 109–37, § 7(k), July 22, 2005, 119 Stat. 403; Pub. L. 109–40, § 7(k), July 28, 2005, 119 Stat. 420, which authorized the Secretary of Transportation to make access to jobs grants and reverse commute grants to assist qualified entities in financing eligible projects, was repealed by Pub. L. 109–59, title III, § 3018(c), Aug. 10, 2005, 119 Stat. 1605, effective Oct. 1, 2005. See section 5316 of this title.

ENCOURAGEMENT OF ADVERSELY AFFECTED INDUSTRIES TO COMPETE FOR CONTRACTS

Pub. L. 91–453, § 10, Oct. 15, 1970, 84 Stat. 968, as amended by Pub. L. 102–240, title III, § 3003(b), Dec. 18, 1991, 105 Stat. 2088, provided that: ''The Secretary of Transportation shall in all ways (including the provision of technical assistance) encourage industries adversely affected by reductions in Federal Government spending on space, military, and other Federal projects to compete for the contracts provided for under sections 3 and 6 of the Federal Transit Act (49 U.S.C. 1602 and 1605) [now 49 U.S.C. 5309 and 5312], as amended by this Act.''

## § 5310. Formula grants for special needs of elderly individuals and individuals with disabilities

(a) GENERAL AUTHORITY.—

(1) GRANTS.—The Secretary may make grants to States and local governmental authorities under this section for public transportation capital projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities.

(2) SUBRECIPIENTS.—A State that receives a grant under this section may allocate the amounts provided under the grant to—

(A) a private nonprofit organization, if the public transportation service provided under paragraph (1) is unavailable, insufficient, or inappropriate; or

(B) a governmental authority that—

(i) is approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

(ii) certifies that there are not any nonprofit organizations readily available in the area to provide the services described under paragraph (1).

(3) ACQUIRING PUBLIC TRANSPORTATION SERVICES.—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

(4) ADMINISTRATIVE EXPENSES.—A State or local governmental authority may use not more than 10 percent of the amounts apportioned to the State under this section to administer, plan, and provide technical assistance for a project funded under this section.

(b) APPORTIONMENT AND TRANSFERS.—

(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State.

(2) TRANSFER OF FUNDS.—Any funds apportioned to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

(c) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—

(A) IN GENERAL.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary.

(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive an increased Government share in accordance with the formula under that section.

(2) REMAINDER.—The remainder of the net project costs—

(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

(3) USE OF CERTAIN FUNDS.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant under this section shall be subject to all requirements of a grant under section 5307 to the extent the Secretary determines appropriate.

(2) CERTIFICATION REQUIREMENTS.—

(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Beginning in fiscal year 2007, each grant recipient under this section shall certify that—

(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

(e) STATE PROGRAM OF PROJECTS.—

(1) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects.

(2) SUBMISSION AND APPROVAL.—A State shall submit to the Secretary annually for approval a program of projects. The program shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities.

(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 807; Pub. L. 105–178, title III, § 3013(a), June 9, 1998, 112 Stat. 359; Pub. L. 109–59, title III, §§ 3002(b)(2), 3012(a), Aug. 10, 2005, 119 Stat. 1544, 1589.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5310(a) | 49 App.:1612(b) (1st sentence words before cl. (1)), cls. (1) (words before 3d comma), (2) (words before ''with such grants''). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 16(b) (1st sentence); added Oct. 15, 1970, Pub. L. 91–453, § 8, 84 Stat. 967; restated Aug. 13, 1973, Pub. L. 93–87, § 301(g), 87 Stat. 295; Dec. 18, 1991, Pub. L. 102–240, § 3021(1)–(4), 105 Stat. 2110. |
| 5310(b) | 49 App.:1612(c)(2), (3). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 16(c); added Dec. 18, 1991, Pub. L. 102–240, § 3021(6), 105 Stat. 2110; Oct. 6, 1992, Pub. L. 102–388, § 502(k), 106 Stat. 1567. |
| 5310(c) | 49 App.:1612(c)(1). | |
| 5310(d) | 49 App.:1612(b) (1st sentence cl. (3)). | |
| 5310(e) | 49 App.:1612(b) (1st sentence cls. (1) (words after 3d comma), (2) (words after ''service under this sub-section'')). | |
| 5310(f) | 49 App.:1612(e). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 16(e); added Jan. 6, 1983, Pub. L. 97–424, § 317(c), 96 Stat. 2153; Apr. 2, 1987, Pub. L. 100–17, § 327(a)(4), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, § 3021(1), (5), 105 Stat. 2110. |
| 5310(g) | 49 App.:1612(c)(4). | |
| 5310(h) | 49 App.:1612(f). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 16(f); added Apr. 2, 1987, Pub. L. 100–17, § 321, 101 Stat. 235; restated Dec. 18, 1991, Pub. L. 102–240, § 3021(5), (7), 105 Stat. 2110, 2111. |
| 5310(i) | 49 App.:1614(g) (related to 1612(b)). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(g) (related to § 16(b)); added Nov. 6, 1978, Pub. L. 95–599, § 313, 92 Stat. 2750; restated Dec. 18, 1991, Pub. L. 102–240, § 3022, 105 Stat. 2111. |
| 5310(j) | 49 App.:1604b. | Nov. 26, 1974, Pub. L. 93–503, § 108, 88 Stat. 1572. |

In this section, the words ''governmental authorities'' are substituted for ''public bodies'' because of section 5302(a) of the revised title.

In subsection (a), before clause (1), the words ''In addition to the grants and loans otherwise provided for under this chapter'' are omitted as surplus. In clauses (1) and (2), the words ''the specific purpose of'' are omitted as surplus. In clause (1), the words ''or agencies thereof'' are omitted as surplus.

In subsection (b), the words ''for expenditure'', ''to the States'', and ''amounts of a'' are omitted as surplus.

In subsection (d), the words ''A recipient of amounts under this section'' are added for clarity to correct an error in the source provisions. The words ''under a contract, lease, or other arrangement'' are omitted as surplus.

In subsection (e), the words ''terms, conditions . . . and provisions'' are omitted as surplus.

In subsection (e)(1), the words ''and is deemed'' are substituted for ''and being considered for the purposes of all other laws'' for consistency in the revised title and with other titles of the United States Code.

In subsection (e)(2), the words ''insofar as may be appropriate'' and ''necessary or . . . for purposes of this paragraph'' are omitted as surplus.

In subsection (f), the words ''any applicable'' are omitted as surplus. The words ''prescribe regulations establishing'' are substituted for ''not later than ninety days after January 6, 1983, publish in the Federal Register for public comment, proposed regulations and, not later than one hundred and eighty days after January

6, 1983, promulgate final regulations, establishing'' to eliminate unnecessary and executed words. Section 3021(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2110) is applied to 49 App.:1612(e) to carry out the apparent intent of Congress.

In subsection (g), the words ''not later than 60 days following December 18, 1991'' are omitted as obsolete. The words ''and agencies'' are omitted as surplus.

In subsection (j), the words ''elderly individuals and individuals with disabilities'' are substituted for ''elderly and handicapped persons'' for consistency.

AMENDMENTS

2005—Pub. L. 109–59, § 3012(a), amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (j) relating to formula grants and loans for special needs of elderly individuals and individuals with disabilities.

Subsec. (h). Pub. L. 109–59, § 3002(b)(2), substituted ''Public'' for ''Mass''.

1998—Pub. L. 105–178 substituted ''Formula grants'' for ''Grants'' in section catchline.

ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM

Pub. L. 109–59, title III, § 3012(b), Aug. 10, 2005, 119 Stat. 1591, as amended by Pub. L. 111–147, title IV, § 437(c), Mar. 18, 2010, 124 Stat. 92; Pub. L. 111–322, title II, § 2307(c), Dec. 22, 2010, 124 Stat. 3530, provided that:

''(1) IN GENERAL.—In fiscal year 2006, the Secretary [of Transportation] shall establish a pilot program that will allow Wisconsin, Alaska, Minnesota, Oregon, and 3 other States selected by the Secretary to use not more than 33 percent of the funds apportioned to each State to carry out section 5310 of title 49, United States Code, for operating costs associated with public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities under such section. The Secretary may base the selection of participating States on a State's exemplary coordination of public transit-human services transportation. The Secretary may require participants to collect data necessary to support the report to Congress required by paragraph (7).

''(2) PLANNING COORDINATION.—Recipients of funds made available consistent with this subsection shall certify that—

''(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

''(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

''(3) GOVERNMENT'S SHARE OF COSTS.—Operating assistance under this subsection may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The credit for any non-Federal share provided under this subsection shall not reduce nor replace State funds required to match Federal funds for formula grants for the special needs of elderly individuals and individuals with disabilities program authorized under section 5310 of title 49, United States Code.

''(4) REMAINDER.—The remainder of the net project costs—

''(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

''(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

''(5) USE OF CERTAIN FUNDS.—For purposes of paragraph (4)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

''(6) ELIGIBLE ACTIVITIES.—Projects eligible under the pilot program may include the collection of data necessary to support the report to Congress required by paragraph (7).

''(7) REPORT.—Not later than 2 years after the date of enactment of this Act [Aug. 10, 2005], the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program, which may include—

''(A) the extent to which funds were used to subsidize existing paratransit service provided in compliance with the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.];

''(B) whether States participating in the pilot program use the funds to provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act of 1990 differently than States not in the pilot program;

''(C) whether States participating in this pilot program use the funds to provide services to individuals with disabilities that exceed those services required by the Americans with Disabilities Act of 1990 to the detriment of other eligible projects;

''(D) the percentage of funds used to assist elderly individuals;

''(E) the percentage of funds used to assist individuals with disabilities;

''(F) the extent to which States participating in this pilot program serve a wider range of elderly, low income, and persons with disabilities populations;

''(G) whether the pilot program improves services to elderly individuals and individuals with disabilities;

''(H) the extent to which States participating in the pilot program were able to expand the range of transportation alternatives available to elderly individuals and individuals with disabilities; and

''(I) whether the pilot program facilitates or discourages coordination with or integration of other funding sources.

''(8) SUNSET.—This subsection shall cease to be effective on March 4, 2011.''

OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM

Pub. L. 105–178, title III, § 3038, June 9, 1998, 112 Stat. 392, as amended by Pub. L. 105–206, title IX, § 9009(x), July 22, 1998, 112 Stat. 862; Pub. L. 106–346, § 101(a) [title III, § 336], Oct. 23, 2000, 114 Stat. 1356, 1356A–31; Pub. L. 108–88, § 8(m), Sept. 30, 2003, 117 Stat. 1125; Pub. L. 108–202, § 9(m), Feb. 29, 2004, 118 Stat. 488; Pub. L. 108–224, § 7(m), Apr. 30, 2004, 118 Stat. 636; Pub. L. 108–263, § 7(m), June 30, 2004, 118 Stat. 707; Pub. L. 108–280, § 7(m), July 30, 2004, 118 Stat. 885; Pub. L. 108–310, § 8(m), Sept. 30, 2004, 118 Stat. 1158; Pub. L. 109–14, § 7(*l*), May 31, 2005, 119 Stat. 333; Pub. L. 109–20, § 7(*l*), July 1, 2005, 119 Stat. 355; Pub. L. 109–35, § 7(*l*), July 20, 2005, 119 Stat. 388; Pub. L. 109–37, § 7(*l*), July 22, 2005, 119 Stat. 403; Pub. L. 109–40, § 7(*l*), July 28, 2005, 119 Stat. 420; Pub. L. 109–59, title III, § 3039(a), Aug. 10, 2005, 119 Stat. 1638, provided that:

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) INTERCITY, FIXED-ROUTE OVER-THE-ROAD BUS SERVICE.—The term 'intercity, fixed-route over-the-road bus service' means regularly scheduled bus service for the general public, using an over-the-road bus, that—

''(A) operates with limited stops over fixed routes connecting 2 or more urban areas not in close proximity or connecting 1 or more rural communities with an urban area not in close proximity;

''(B) has the capacity for transporting baggage carried by passengers; and

''(C) makes meaningful connections with scheduled intercity bus service to more distant points.

''(2) OTHER OVER-THE-ROAD BUS SERVICE.—The term 'other over-the-road bus service' means any other transportation using over-the-road buses including local fixed-route service, commuter service, and charter or tour service (including tour or excursion service that includes features in addition to bus transportation such as meals, lodging, admission to points of interest or special attractions or the services of a tour guide).

''(3) OVER-THE-ROAD BUS.—The term 'over-the-road bus' means a bus characterized by an elevated passenger deck located over a baggage compartment.

''(b) GENERAL AUTHORITY.—The Secretary [of Transportation] shall make grants under this section to operators of over-the-road buses to finance the incremental capital and training costs of complying with the Department of Transportation's final rule regarding accessibility of over-the-road buses required by section 306(a)(2)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12186(a)(2)(B)).

''(c) GRANT CRITERIA.—In selecting applicants for grants under this section, the Secretary shall consider—

''(1) the identified need for over-the-road bus accessibility for persons with disabilities in the areas served by the applicant;

''(2) the extent to which the applicant demonstrates innovative strategies and financial commitment to providing access to over-the-road buses to persons with disabilities;

''(3) the extent to which the over-the-road bus operator acquires equipment required by the final rule prior to any required timeframe in the final rule;

''(4) the extent to which financing the costs of complying with the Department of Transportation's final rule regarding accessibility of over-the-road buses presents a financial hardship for the applicant; and

''(5) the impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of the requirements on service to rural areas and for low-income individuals.

''(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

''(e) FEDERAL SHARE OF COSTS.—The Federal share of costs under this section shall be provided from funds made available to carry out this section and shall be determined in accordance with section 5323(i) of title 49, United States Code.

''(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to all of the terms and conditions applicable to subrecipients who provide intercity bus transportation under section 5311(f) of title 49, United States Code, and such other terms and conditions as the Secretary may prescribe.

''(g) FUNDING.—

''(1) INTERCITY, FIXED ROUTE OVER-THE-ROAD BUS SERVICE.—Of the amounts made available to carry out this section in each fiscal year, 75 percent shall be available for operators of over-the-road buses used substantially or exclusively in intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.

''(2) OTHER OVER-THE-ROAD BUS SERVICE.—Of the amounts made available to carry out this section in each fiscal year, 25 percent shall be available for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.''

## § 5311. Formula grants for other than urbanized areas

(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

(1) RECIPIENT.—The term ''recipient'' means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

(2) SUBRECIPIENT.—The term ''subrecipient'' means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.

(b) GENERAL AUTHORITY.—

(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

(A) public transportation capital projects;

(B) operating costs of equipment and facilities for use in public transportation; and

(C) the acquisition of public transportation services, including service agreements with private providers of public transportation services.

(2) STATE PROGRAM.—

(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and

(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in other than urbanized areas.

(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available to carry out this section to make grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.

(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.

(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

(A) total annual revenue;

(B) sources of revenue;
(C) total annual operating costs;
(D) total annual capital costs;
(E) fleet size and type, and related facilities;
(F) revenue vehicle miles; and
(G) ridership.

(c) APPORTIONMENTS.—

(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(G) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

(A) $8,000,000 for fiscal year 2006.
(B) $10,000,000 for fiscal year 2007.
(C) $12,000,000 for fiscal year 2008.
(D) $15,000,000 for fiscal year 2009.
(E) $15,000,000 for fiscal year 2010.
(F) $6,369,000 for the period beginning October 1, 2010 and ending March 4, 2011.

(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(G) of section 5338 that are not apportioned under paragraph (1)—

(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and
(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

(3) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—

(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

(4) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary of Transportation may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a subrecipient, including project planning, program and management development, coordination of public transportation programs, and research the State considers appropriate to promote effective delivery of public transportation to an area other than an urbanized area.

(f) INTERCITY BUS TRANSPORTATION.—

(1) IN GENERAL.—A State shall expend at least 15 percent of the amount made available in each fiscal year to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

(A) planning and marketing for intercity bus transportation;
(B) capital grants for intercity bus shelters;
(C) joint-use stops and depots;
(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and
(E) coordinating rural connections between small public transportation operations and intercity bus carriers.

(2) CERTIFICATION.—A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the chief executive officer of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.

(g) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—

(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for a capital project or project administrative expenses shall be for 80 percent of the net costs of the project, as determined by the Secretary.

(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net costs in accordance with the formula under that section.

(2) OPERATING ASSISTANCE.—

(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under paragraph (1)(B).

(3) REMAINDER.—The remainder of net project costs—

(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

(h) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

(i) RELATIONSHIP TO OTHER LAWS.—(1) Section 5333(b) applies to this section if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees.

(2) This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 809; Pub. L. 105–178, title III, § 3014(a), June 9, 1998, 112 Stat. 359; Pub. L. 109–59, title III, §§ 3002(b)(4), 3013(a)–(h), Aug. 10, 2005, 119 Stat. 1545, 1593–1596; Pub. L. 110–244, title II, § 201(e), June 6, 2008, 122 Stat. 1610; Pub. L. 111–147, title IV, § 434, Mar. 18, 2010, 124 Stat. 89; Pub. L. 111–322, title II, § 2304, Dec. 22, 2010, 124 Stat. 3527.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5311(a) ..... | 49 App.:1614(c) (3d sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(b), (c) (2d, 3d sentences), (d), (e) (1st–4th sentences), (f); added Nov. 6, 1978, Pub. L. 95–599, § 313, 92 Stat. 2749, 2750. |
| 5311(b)(1) .... | 49 App.:1614(b) (1st sentence 18th–last words, 2d, last sentences), (c) (2d sentence words between 1st and 2d commas). | |
| 5311(b)(2) .... | 49 App.:1614(h). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(h); added Apr. 2, 1987, Pub. L. 100–17, § 323, 101 Stat. 235. |
| 5311(c) ..... | 49 App.:1614(a) (1st sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(a) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, § 313, 92 Stat. 2748; Jan. 6, 1983, Pub. L. 97–424, § 316(a), 96 Stat. 2153. |
| | 49 App.:1614(a) (2d sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(a) (2d sentence); added Nov. 6, 1978, Pub. L. 95–599, § 313, 92 Stat. 2748; Dec. 18, 1991, Pub. L. 102–240, § 3024, 105 Stat. 2112. |
| | 49 App.:1614(c) (1st sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(c) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, § 313, 92 Stat. 2749; Jan. 6, 1983, Pub. L. 97–424, § 316(b), 96 Stat. 2153. |
| 5311(d) ..... | 49 App.:1614(b) (1st sentence 1st–17th words), (c) (2d sentence words before 1st and after 2d commas). | |
| 5311(e)(1) .... | 49 App.:1614(d). | |
| 5311(e)(2) .... | 49 App.:1614(c) (4th sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(c) (4th sentence); added Apr. 2, 1987, Pub. L. 100–17, § 322, 101 Stat. 235. |
| 5311(f) ..... | 49 App.:1614(i). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(i); added Dec. 18, 1991, Pub. L. 102–240, § 3023, 105 Stat. 2111. |
| 5311(g)(1) .... | 49 App.:1614(e) (last sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(e) (last sentence); added Dec. 19, 1985, Pub. L. 99–190, § 326, 99 Stat. 1289. |
| 5311(g)(2) .... | 49 App.:1614(e) (1st–4th sentences). | |
| 5311(h) ..... | 49 App.:1614(c) (last sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(c) (last sentence); added Oct. 6, 1992, Pub. L. 102–388, § 502(*l*), 106 Stat. 1567. |
| 5311(i) ..... | 49 App.:1614(g) (related to this section). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(g) (related to this section); added Nov. 6, 1978, Pub. L. 95–599, § 313(a), 92 Stat. 2750; restated Dec. 18, 1991, Pub. L. 102–240, § 3022, 105 Stat. 2111. |
| 5311(j) ..... | 49 App.:1614(f). | |

In subsection (a), the words ''Eligible'' and ''and agencies thereof'' are omitted as surplus.

In subsection (b)(1), the words ''The Secretary of Transportation may make grants'' are added for clarity and consistency in this chapter. The word ''equitable'' is omitted as being included in ''fair''.

In subsection (b)(2), the words ''establish and'' are omitted as executed. The word ''direct'' is omitted as surplus.

In subsection (c), the words ''for expenditure in each fiscal year'' are omitted as surplus. The words ''so that'' are substituted for ''Such sums shall be made available for expenditure for public transportation projects in areas other than urbanized areas on the basis of a formula under which'' to eliminate unnecessary words. The words ''will be entitled to'' and ''as designated by the Bureau of the Census'' are omitted as surplus. The words ''United States'' are substituted for ''all the States'' for consistency in the revised title and with other titles of the Code. The words ''available'', ''a period of'', and ''the close of'' are omitted as surplus.

In subsection (d), the words ''included in a program under subsection (b) of this section'' are substituted for 49 App.:1614(b) (1st–17th words) and ''which are appropriate for areas other than urbanized areas'' to eliminate unnecessary words. The words ''for assistance'' are added for clarity.

In subsection (e)(1), the words ''of funds under this section. Such technical assistance'' and ''(public and private)'' are omitted as surplus.

In subsections (e)(2) and (g)(2), the word ''grant'' is substituted for ''share'' for consistency in this chapter.

In subsection (f), the text of 49 App.:1614(i)(3) is omitted as obsolete.

In subsection (f)(1), before clause (A), the words ''Subject to paragraph (2)'' are omitted as surplus. The reference to fiscal year 1992 is omitted as obsolete.

In subsection (g)(2), the words ''under this chapter'', ''as defined by the Secretary'', ''Any public or private'', ''solely'', and ''available in'' are omitted as surplus.

Subsection (h) is substituted for 49 App.:1614(c) (last sentence) for clarity and consistency in this chapter and to eliminate unnecessary words.

In subsection (j)(1), the text of 49 App.:1614(f) (1st sentence) is omitted as unnecessary because of section 5334(a) of the revised title and 49:322(a). The words ''in carrying out projects'' are omitted as surplus.

AMENDMENTS

2010—Subsec. (c)(1)(E). Pub. L. 111–147 added subpar. (E).

Subsec. (c)(1)(F). Pub. L. 111–322 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''$3,750,000 for the period beginning October 1, 2010, and ending December 31, 2010.''

Pub. L. 111–147 added subpar. (F).

2008—Subsec. (g)(1)(A). Pub. L. 110–244, § 201(e)(1), (2), substituted ''for a capital project or project administrative expenses'' for ''for any purpose other than operating assistance'' and struck out ''capital'' after ''net''.

Subsec. (g)(1)(B). Pub. L. 110–244, § 201(e)(2), struck out ''capital'' after ''net''.

Subsec. (i)(1). Pub. L. 110–244, § 201(e)(3), substituted ''Section 5333(b) applies'' for ''Sections 5323(a)(1)(D) and 5333(b) of this title apply''.

2005—Subsec. (a). Pub. L. 109–59, § 3013(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''In this section, 'recipient' includes a State authority, a local governmental authority, a nonprofit organization, and an operator of mass transportation service.''

Subsec. (b). Pub. L. 109–59, § 3013(b), reenacted heading without change and amended text of subsec. (b) generally. Prior to amendment, text read as follows:

''(1) The Secretary of Transportation may make grants for transportation projects that are included in a State program of mass transportation service projects (including service agreements with private providers of mass transportation service) for areas other than urbanized areas. The program shall be submitted annually to the Secretary. The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of mass transportation service assisted under this section with transportation service assisted by other United States Government sources.

''(2) The Secretary of Transportation shall carry out a rural transportation assistance program in nonurbanized areas. In carrying out this paragraph, the Secretary may make grants and contracts for transportation research, technical assistance, training, and related support services in nonurbanized areas.''

Subsec. (c). Pub. L. 109–59, § 3013(c), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''The Secretary of Transportation shall apportion amounts made available under section 5338(a) of this title so that the chief executive officer of each State receives an amount equal to the total amount apportioned multiplied by a ratio equal to the population of areas other than urbanized areas in a State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent of the following: the latest Government census, the population estimate the Secretary of Commerce prepares after the 4th year after the date the latest census is published, or the population estimate the Secretary of Commerce prepares after the 8th year after the date the latest census is published. The amount may be obligated by the chief executive officer for 2 years after the fiscal year in which the amount is apportioned. An amount that is not obligated at the end of that period shall be reapportioned among the States for the next fiscal year.''

Subsec. (e). Pub. L. 109–59, § 3013(d), inserted '', Planning,'' after ''Administration'' in heading and in text struck out ''(1)'' before ''The Secretary'', substituted ''subrecipient'' for ''recipient'', and struck out par. (2) which read as follows: ''Except as provided in this section, a State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.''

Subsec. (e)(1). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' in two places.

Subsec. (f)(1). Pub. L. 109–59, § 3013(e)(1), inserted heading, struck out ''after September 30, 1993,'' after ''in each fiscal year'' in introductory provisions and realigned margins of subpars. (A) to (D).

Subsec. (f)(1)(E). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (f)(2). Pub. L. 109–59, § 3013(e)(2), inserted heading and substituted ''Secretary, after consultation with affected intercity bus service providers,'' for ''Secretary of Transportation''.

Subsec. (g). Pub. L. 109–59, § 3013(f), substituted ''Government'' for ''Government's'' in heading and amended text generally. Prior to amendment, text read as follows:

''(1) In this subsection, 'amounts of the Government or revenues' do not include amounts received under a service agreement with a State or local social service agency or a private social service organization.

''(2) A grant of the Government for a capital project under this section may not be more than 80 percent of the net cost of the project, as determined by the Secretary of Transportation. A grant to pay a subsidy for operating expenses may not be more than 50 percent of the net cost of the operating expense project. At least 50 percent of the remainder shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation. Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.''

Subsec. (h). Pub. L. 109–59, § 3013(g), redesignated subsec. (i) as (h) and struck out heading and text of former subsec. (h). Text read as follows: ''An amount made available under this section may be used for operating assistance.''

Subsec. (i). Pub. L. 109–59, § 3013(g)(2), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

Subsec. (i)(1). Pub. L. 109–59, § 3013(h), which directed amendment of subsec. (j)(1) by substituting ''if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees'' for ''but the Secretary of Labor may waive the application of section 5333(b)'', was executed by making the substitution in subsec. (i)(1) to reflect the probable intent of Congress and the redesignation of subsec. (j) as (i) by Pub. L. 109–59, § 3013(g)(2). See above.

Subsec. (j). Pub. L. 109–59, § 3013(g)(2), redesignated subsec. (j) as (i).

1998—Pub. L. 105–178, § 3014(a)(1), substituted ''Formula grants'' for ''Financial assistance'' in section catchline.

Subsec. (f)(1). Pub. L. 105–178, § 3014(a)(2), struck out ''10 percent of the amount made available in the fiscal year ending September 30, 1993, and'' before ''15 percent of the amount'' in introductory provisions.

## § 5312. Research, development, demonstration, and deployment projects

(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration, and deployment projects, and evaluation of technology of national significance to public transportation, that the Secretary determines

will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.

(b) JOINT PARTNERSHIP PROGRAM FOR DEPLOYMENT OF INNOVATION.—

(1) DEFINITION OF CONSORTIUM.—In this subsection, the term ''consortium''—

(A) means 1 or more public or private organizations located in the United States that provide public transportation service to the public and 1 or more businesses, including small- and medium-sized businesses, incorporated in a State, offering goods or services or willing to offer goods and services to public transportation operators; and

(B) may include, as additional members, public or private research organizations located in the United States, or State or local governmental authorities.

(2) GENERAL AUTHORITY.—The Secretary may, under terms and conditions that the Secretary prescribes, enter into grants, contracts, cooperative agreements, and other agreements with consortia selected in accordance with paragraph (4), to promote the early deployment of innovation in public transportation services, management, operational practices, or technology that has broad applicability. This paragraph shall be carried out in consultation with the transit industry by competitively selected consortia that will share costs, risks, and rewards of early deployment of innovation.

(3) CONSORTIUM CONTRIBUTION.—A consortium assisted under this subsection shall provide not less than 50 percent of the costs of any joint partnership project. Any business, organization, person, or governmental body may contribute funds to a joint partnership project.

(4) NOTICE REQUIREMENT.—The Secretary shall periodically give public notice of the technical areas for which joint partnerships are solicited, required qualifications of consortia desiring to participate, the method of selection and evaluation criteria to be used in selecting participating consortia and projects, and the process by which innovation projects described in paragraph (1) will be awarded.

(5) USE OF REVENUES.—The Secretary shall accept, to the maximum extent practicable, a portion of the revenues resulting from sales of an innovation project funded under this section. Such revenues shall be accounted for separately within the Mass Transit Account of the Highway Trust Fund and shall be available to the Secretary for activities under this subsection. Annual revenues that are less than $1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation.

(c) INTERNATIONAL PUBLIC TRANSPORTATION PROGRAM.—

(1) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the United States domestic public transportation community about technological innovations available in the international marketplace and activities that may afford domestic businesses the opportunity to become globally competitive in the export of public transportation products and services. Such activities may include—

(A) development, monitoring, assessment, and dissemination domestically of information about worldwide public transportation market opportunities;

(B) cooperation with foreign public sector entities in research, development, demonstration, training, and other forms of technology transfer and exchange of experts and information;

(C) advocacy, in international public transportation markets, of firms, products, and services available from the United States;

(D) informing the international market about the technical quality of public transportation products and services through participation in seminars, expositions, and similar activities; and

(E) offering those Federal Transit Administration technical services which cannot be readily obtained from the United States private sector to foreign public authorities planning or undertaking public transportation projects if the cost of these services will be recovered under the terms of each project.

(2) COOPERATION.—The Secretary may carry out activities under this subsection in cooperation with other Federal agencies, State or local agencies, public or private nonprofit institutions, government laboratories, foreign governments, or any other organization the Secretary determines is appropriate.

(3) FUNDING.—The funds available to carry out this subsection shall include revenues paid to the Secretary by any cooperating organization or person. Such revenues shall be available to the Secretary to carry out activities under this subsection, including promotional materials, travel, reception, and representation expenses necessary to carry out such activities. Annual revenues that are less than $1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation. Not later than January 1 of each fiscal year, the Secretary shall publish a report on the activities under this paragraph funded from the account.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 811; Pub. L. 105–178, title III, § 3015(a), June 9, 1998, 112 Stat. 359; Pub. L. 109–59, title III, §§ 3002(b)(4), 3014(a)–(e)(1), Aug. 10, 2005, 119 Stat. 1545, 1596, 1597; Pub. L. 110–244, title II, § 201(f), June 6, 2008, 122 Stat. 1610.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5312(a) ..... | 49 App.:1605(a). | July 9, 1964, Pub. L. 88–365, § 6(a), 78 Stat. 305; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 13(b), 84 Stat. 969. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | 49 App.:1605(d). | July 9, 1964, Pub. L. 88–365, § 6(d), 78 Stat. 305; Sept. 8, 1966, Pub. L. 89–562, § 3, 80 Stat. 717; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25. |
| 5312(b)(1) .... | 49 App.:1607c(a) (1st, 2d sentences). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 11(a); added Sept. 8, 1966, Pub. L. 89–562, § 2(a)(2), 80 Stat. 716. |
| 5312(b)(2) .... | 49 App.:1607c(a) (3d sentence). | |
| 5312(b)(3) .... | 49 App.:1607c(a) (last sentence). | |
| 5312(c)(1) .... | 49 App.:1607b (1st sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 10; added Sept. 8, 1966, Pub. L. 89–562, § 2(a)(2), 80 Stat. 716; restated Nov. 6, 1978, Pub. L. 95–599, § 306, 92 Stat. 2744. |
| 5312(c)(2) .... | 49 App.:1603(c) (1st sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 4(c) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, § 303(e), 92 Stat. 2739; Apr. 2, 1987, Pub. L. 100–17, § 320, 101 Stat. 235; Dec. 18, 1991, Pub. L. 102–240, § 3006(h)(1), 105 Stat. 2090. |
| 5312(c)(3) .... | 49 App.:1607b (2d–last sentences). | |

In subsections (a) and (b)(1), the words ''(or the Secretary of Housing and Urban Development when required by section 5334(i) of this title)'' are added for clarity.

In subsection (a), the word ''working'' is omitted as surplus. The words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''other Federal departments and agencies'' for consistency in the revised title and with other titles of the United States Code. The words ''all phases of'', ''(including the development, testing, and demonstration of new facilities, equipment, techniques, and methods)'', ''In carrying out the provisions of this section'', ''or data as he deems'', ''public or private'', and ''contained . . . section 1701d–3 of title 12 or . . . other provision of'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''public and private'', ''assist in establishing or carrying on comprehensive research in the problems of transportation in urban areas. Such grants shall be used to'', and ''and qualified'' are omitted as surplus. In clause (A), the words ''or both'' are omitted as surplus.

In subsection (b)(3), the word ''appropriate'' is added for clarity.

In subsection (c)(1), the words ''and agencies thereof'' are omitted as surplus.

In subsection (c)(3), before clause (A), the words ''public or private training'' and ''the sum of'' are omitted as surplus. In clause (B), the words ''in connection with the fellowship'' are omitted as surplus.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–244 substituted ''Public Transportation'' for ''Mass Transportation'' in heading.

2005—Pub. L. 109–59, § 3014(e)(1), substituted ''deployment'' for ''training'' in section catchline.

Subsec. (a). Pub. L. 109–59, § 3014(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5334(i) of this title) may undertake, or make grants or contracts (including agreements with departments, agencies, and instrumentalities of the United States Government) for, research, development, and demonstration projects related to urban mass transportation that the Secretary decides will help reduce urban transportation needs, improve mass transportation service, or help mass transportation service meet the total urban transportation needs at a minimum cost. The Secretary may request and receive appropriate information from any source. This subsection does not limit the authority of the Secretary under another law.''

Subsec. (b). Pub. L. 109–59, § 3014(b), redesignated subsec. (d) as (b) and struck out former subsec. (b) which related to grants to nonprofit institutions of higher learning for research, investigations, and training.

Subsec. (c). Pub. L. 109–59, § 3014(b), redesignated subsec. (e) as (c) and struck out former subsec. (c) which related to grants to States, local governmental authorities, and operators of mass transportation systems for training fellowships and grants to State and local governmental authorities for projects that would use innovative techniques and methods in managing and providing mass transportation.

Subsec. (c)(2). Pub. L. 109–59, § 3014(c), substituted ''public or private'' for ''public and private''.

Subsec. (c)(3). Pub. L. 109–59, § 3014(d), struck out ''shall be accounted for separately within the Mass Transit Account of the Highway Trust Fund and'' after ''Such revenues''.

Subsec. (d). Pub. L. 109–59, § 3014(b), redesignated subsec. (d) as (b).

Subsec. (d)(1)(A), (2). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' wherever appearing.

Subsec. (e). Pub. L. 109–59, § 3014(b), redesignated subsec. (e) as (c).

Subsec. (e)(1). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' wherever appearing.

1998—Subsecs. (d), (e). Pub. L. 105–178 added subsecs. (d) and (e).

## § 5313. Transit cooperative research program

(a) COOPERATIVE RESEARCH PROGRAM.—The amounts made available under subsections (a)(5)(C)(iii) and (d)(1) of section 5338 are available for a public transportation cooperative research program. The Secretary of Transportation shall establish an independent governing board for the program. The board shall recommend public transportation research, development, and technology transfer activities the Secretary considers appropriate.

(b) FEDERAL ASSISTANCE.—The Secretary may make grants to, and cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary decides are appropriate.

(c) GOVERNMENT'S SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with that benefit.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 812; Pub. L. 105–178, title III, § 3029(b)(4), (5), June 9, 1998, 112 Stat. 372; Pub. L. 109–59, title III, §§ 3002(b)(4), 3015(a), (b)(1), Aug. 10, 2005, 119 Stat. 1545, 1597.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5313(a) ..... | 49 App.:1622(a)(1). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 26(a); added Dec. 18, 1991, Pub. L. 102–240, § 3030, 105 Stat. 2117; Oct. 6, 1992, Pub. L. 102–388, § 502(r), 106 Stat. 1567. |
| 5313(b) ..... | 49 App.:1622(a)(2). | |
| 5313(c) ..... | 49 App.:1622(b)(8) (related to subsection (a)(1)). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 26(b)(8) (related to subsection (a)(1)); added Dec. 18, 1991, Pub. L. 102–240, § 3030, 103 Stat. 2119. |

In subsection (b)(1), the word ''total'' is omitted as surplus.

In subsection (b)(2), the word ''subsection'' in the source provision is translated as if it were ''paragraph'' to reflect the apparent intent of Congress.

In subsection (b)(3)(A), the words ''for obligation'', ''a period of'', and ''the close of'' are omitted as surplus.

AMENDMENTS

2005—Pub. L. 109–59, § 3015(b)(1), substituted ''Transit cooperative research program'' for ''State planning and research programs'' in section catchline.

Subsec. (a). Pub. L. 109–59, § 3015(a)(2), redesignated par. (2) as subsec. (b) and directed amendment of subsec. (a) by substituting ''The amounts made available under subsections (a)(5)(C)(iii) and (d)(1) of section 5338'' for ''(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c) of this title'', which was executed by making the substitution for ''(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(d) of this title'', to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' in two places.

Subsec. (b). Pub. L. 109–59, § 3015(a)(1), (2)(B), redesignated subsec. (a)(2) as (b), inserted heading, and struck out former subsec. (b) which related to apportionment of amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c) of this title to States for grants and contracts consistent with the purposes of sections 5303–5306, 5312, 5315, 5317, and 5322 of this title.

Subsec. (c). Pub. L. 109–59, § 3015(a)(3), reenacted heading without change and amended text of subsec. (c) generally. Prior to amendment, text read as follows: ''When there would be a clear and direct financial benefit to an entity under a grant or contract financed under subsection (a) of this section, the Secretary shall establish a United States Government share consistent with the benefit.''

1998—Subsec. (a)(1). Pub. L. 105–178, § 3029(b)(4), substituted ''The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(d)'' for ''Fifty percent of the amounts made available under section 5338(g)(3)''.

Subsec. (b)(1). Pub. L. 105–178, § 3029(b)(5), substituted ''The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c)'' for ''Fifty percent of the amounts made available under section 5338(g)(3)''.

## § 5314. National research programs

(a) PROGRAM.—(1) The amounts made available under section 5338(d) are available to the Secretary of Transportation for grants, contracts, cooperative agreements, or other agreements for the purposes of sections 5312, 5315, and 5322 of this title, as the Secretary considers appropriate.

(2) The Secretary shall provide public transportation-related technical assistance, demonstration programs, research, public education, and other activities the Secretary considers appropriate to help public transportation providers comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). To the extent practicable, the Secretary shall carry out this paragraph through a contract with a national nonprofit organization serving individuals with disabilities that has a demonstrated capacity to carry out the activities.

(3) Not more than 25 percent of the amounts available under paragraph (1) of this subsection is available to the Secretary for special demonstration initiatives, subject to terms the Secretary considers consistent with this chapter, except that section 5333(b) of this title applies to an operational grant financed in carrying out section 5312(a) of this title. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures on complying with the requirements of this chapter.

(4)(A) The Secretary may undertake a program of public transportation technology development in coordination with affected entities.

(B) The Secretary shall develop guidelines for cost sharing in technology development projects financed under this paragraph. The guidelines shall be flexible and reflect the extent of technical risk, market risk, and anticipated supplier benefits and payback periods.

(5) The Secretary may use amounts appropriated under this subsection to supplement amounts available under section 5313(a) of this title, as the Secretary considers appropriate.

(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

(ii) is an agency of a State or unit of local government.

(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

(D) APPLICATION.—

(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

(I) high incidence of renal disease; and

(II) limited access to dialysis facilities.

(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) GOVERNMENT'S SHARE.—When there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under subsection (a) or section 5312, the Secretary shall establish a United States Government share consistent with the benefit.

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

(2) ELIGIBILITY.—An organization shall be eligible to receive a grant under paragraph (1) if the organization—

(A) focuses significantly on serving the needs of the elderly;

(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

(C) has affiliates in a majority of the States;

(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

(A) gather best practices from throughout the Nation and provide such practices to local communities that are implementing senior transportation programs;

(B) work with teams from local communities to identify how the communities are successfully meeting the transportation needs of senior citizens and any gaps in services in order to create a plan for an integrated senior transportation program;

(C) provide resources on ways to pay for senior transportation services;

(D) create a web site to publicize and circulate information on senior transportation programs;

(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

(F) administer the demonstration grant program established under paragraph (4).

(4) GRANTS AUTHORIZED.—

(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

(i) local transportation organizations;

(ii) State agencies;

(iii) units of local government; and

(iv) nonprofit organizations.

(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

(i) evaluate the state of transportation services for senior citizens;

(ii) recognize barriers to mobility that senior citizens encounter in their communities;

(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

(iv) identify future transportation needs of senior citizens within local communities; and

(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this paragraph based on a fair representation of various geographical locations throughout the United States.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 812; Pub. L. 105–178, title III, §§ 3016, 3029(b)(6), June 9, 1998, 112 Stat. 361, 372; Pub. L. 109–59, title III, §§ 3002(b)(4), 3016(a), (b), Aug. 10, 2005, 119 Stat. 1545, 1598, 1599; Pub. L. 110–244, title II, § 201(g), June 6, 2008, 122 Stat. 1610.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5314(a) ..... | 49 App.:1622(b)(1)–(7). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 26(b)(1)–(8) (related to this subsection); added Dec. 18, 1991, Pub. L. 102–240, § 3030, 105 Stat. 2118. |
| 5314(b) ..... | 49 App.:1622(b)(8) (related to this subsection). | |

In subsection (a)(2), the word ''subsection'' in the source provision is translated as if it were ''paragraph'' to reflect the apparent intent of Congress.

In subsection (a)(3), the words ''conditions, requirements, and provisions'' are omitted as being included in ''terms''.

In subsection (a)(4)(C), the word ''section'' in the source provision is translated as if it were ''paragraph'' to reflect the apparent intent of Congress.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(2), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, 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.

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (a)(6)(B)(i), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

AMENDMENTS

2008—Subsec. (a)(3). Pub. L. 110–244, which directed substitution of ''section 5333(b)'' for ''section 5323(a)(1)(D)'' in subsec. (a)(3) of section 5314, without specifying the Code title to be amended, was executed by making the substitution in subsec. (a)(3) of this section, to reflect the probable intent of Congress.

2005—Pub. L. 109–59, § 3016(a)(1), struck out ''planning and'' before ''research'' in section catchline.

Subsec. (a)(1). Pub. L. 109–59, § 3016(a)(2), substituted ''section 5338(d)'' for ''subsections (d) and (h)(7) of section 5338 of this title'' and '', contracts, cooperative agreements, or other agreements'' for ''and contracts'' and struck out ''5303–5306,'' before ''5312,'' and ''5317,'' before ''and 5322''.

Subsec. (a)(2). Pub. L. 109–59, § 3016(a)(3), substituted ''The Secretary shall'' for ''Of the amounts made available under paragraph (1) of this subsection, the Secretary shall make available at least $3,000,000 to''.

Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation-related'' for ''mass transportation-related'' and ''public transportation'' for ''mass transportation''.

Subsec. (a)(4)(A). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (a)(4)(B), (C). Pub. L. 109–59, § 3016(a)(4), (5), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''The Secretary shall

establish an Industry Technical Panel composed of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in identifying priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution.''

Subsec. (a)(6). Pub. L. 109–59, § 3016(a)(6), added par. (6).

Subsec. (b). Pub. L. 109–59, § 3016(a)(7), substituted '', contract, cooperative agreement, or other agreement under subsection (a) or section 5312,'' for ''or contract financed under subsection (a) of this section,''.

Subsec. (c). Pub. L. 109–59, § 3016(b), added subsec. (c).

1998—Subsec. (a)(1). Pub. L. 105–178, § 3029(b)(6), substituted ''subsections (d) and (h)(7) of section 5338'' for ''section 5338(g)(4)''.

Subsec. (a)(2). Pub. L. 105–178, § 3016, substituted ''$3,000,000'' for ''$2,000,000''.

## § 5315. National transit institute

(a) ESTABLISHMENT.—The Secretary shall award grants to Rutgers University to conduct a national transit institute.

(b) DUTIES.—

(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established under subsection (a) shall develop and conduct training and educational programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

(2) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

(A) intermodal and public transportation planning;

(B) management;

(C) environmental factors;

(D) acquisition and joint use rights-of-way;

(E) engineering and architectural design;

(F) procurement strategies for public transportation systems;

(G) turnkey approaches to delivering public transportation systems;

(H) new technologies;

(I) emission reduction technologies;

(J) ways to make public transportation accessible to individuals with disabilities;

(K) construction, construction management, insurance, and risk management;

(L) maintenance;

(M) contract administration;

(N) inspection;

(O) innovative finance;

(P) workplace safety; and

(Q) public transportation security.

(c) PROVIDING EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this section shall be provided—

(1) by the Secretary at no cost to the States and local governments for subjects that are a Government program responsibility; or

(2) when the education and training are paid under subsection (d) of this section, by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

(d) AVAILABILITY OF AMOUNTS.—Not more than .5 percent of the amounts made available for a fiscal year beginning after September 30, 1991, to a State or public transportation authority in the State to carry out sections 5307 and 5309 of this title is available for expenditure by the State and public transportation authorities in the State, with the approval of the Secretary, to pay not more than 80 percent of the cost of tuition and direct educational expenses related to educating and training State and local transportation employees under this section.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 813; Pub. L. 104–287, § 5(13), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, § 3017(a), June 9, 1998, 112 Stat. 361; Pub. L. 105–206, title IX, § 9009(*l*), July 22, 1998, 112 Stat. 857; Pub. L. 109–59, title III, § 3017, Aug. 10, 2005, 119 Stat. 1600.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5315(a) ..... | 49 App.:1625(a) (1st–3d sentences). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 29(a)–(c); added Dec. 18, 1991, Pub. L. 102–240, § 6022, 105 Stat. 2185. |
| 5315(b) ..... | 49 App.:1625(a) (last sentence). | |
| 5315(c) ..... | 49 App.:1625(c). | |
| 5315(d) ..... | 49 App.:1625(b). | |

In subsection (a), before clause (1), the word ''conduct'' is substituted for ''administer'' for consistency in this section.

In subsection (d), the word ''department'' is omitted for consistency in this section.

PUB. L. 104–287

This amends 49:5315(d), 5317(b)(5), and 5323(b)(1), (c), and (e) to correct erroneous cross-references.

AMENDMENTS

2005—Subsecs. (a), (b). Pub. L. 109–59, § 3017(a), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b), which related to establishment and duties of a national transit institute in subsec. (a) and delegation to the institute of the authority of the Secretary to develop and conduct educational and training programs related to mass transportation in subsec. (b).

Subsec. (d). Pub. L. 109–59, § 3017(b), struck out ''mass'' after ''public'' in two places.

1998—Pub. L. 105–178, § 3017(a)(1), as amended by Pub. L. 105–206 substituted ''transit'' for ''mass transportation'' in section catchline.

Subsec. (a). Pub. L. 105–178, § 3017(a)(2)(A), as amended by Pub. L. 105–206 substituted ''national transit institute'' for ''national mass transportation institute'' in introductory provisions.

Subsec. (a)(5). Pub. L. 105–178, § 3017(a)(2)(B), as amended by Pub. L. 105–206 inserted ''and architectural design'' before semicolon at end.

Subsec. (a)(7). Pub. L. 105–178, § 3017(a)(2)(C), as amended by Pub. L. 105–206 substituted ''delivering'' for ''carrying out''.

Subsec. (a)(11). Pub. L. 105–178, § 3017(a)(2)(D), as amended by Pub. L. 105–206 inserted '', construction management, insurance, and risk management'' before semicolon at end.

Subsec. (a)(15), (16). Pub. L. 105–178, § 3017(a)(2)(E)–(G), as amended by Pub. L. 105–206 added pars. (15) and (16).

1996—Subsec. (d). Pub. L. 104–287 substituted ''sections 5307 and 5309'' for ''sections 5304 and 5306''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

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.

## § 5316. Job access and reverse commute formula grants

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ACCESS TO JOBS PROJECT.—The term ''access to jobs project'' means a project relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including—

(A) transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

(B) promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;

(C) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

(D) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986.

(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term ''eligible low-income individual'' means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

(3) RECIPIENT.—The term ''recipient'' means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

(4) REVERSE COMMUTE PROJECT.—The term ''reverse commute project'' means a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities, including any projects to—

(A) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urbanized areas and other than urbanized areas to suburban workplaces;

(B) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

(C) otherwise facilitate the provision of public transportation services to suburban employment opportunities.

(5) SUBRECIPIENT.—The term ''subrecipient'' means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

(6) WELFARE RECIPIENT.—The term ''welfare recipient'' means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

(b) GENERAL AUTHORITY.—

(1) GRANTS.—The Secretary may make grants under this section to a recipient for access to jobs and reverse commute projects carried out by the recipient or a subrecipient.

(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

(c) APPORTIONMENTS.—

(1) FORMULA.—The Secretary shall apportion amounts made available for a fiscal year to carry out this section as follows:

(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

(i) the number of eligible low-income individuals and welfare recipients in each such urbanized area; bears to

(ii) the number of eligible low-income individuals and welfare recipients in all such urbanized areas.

(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in each State; bears to

(ii) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in all States.

(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in each State; bears to

(ii) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in all States.

(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

(C) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

(3) EXCEPTIONS.—A State may use funds apportioned under paragraphs (1)(B) and (1)(C)—

(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the specified area; or

(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.

(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

(e) TRANSFERS.—

(1) IN GENERAL.—A State may transfer any funds apportioned to it under subsection (c)(1)(B) or (c)(1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

(2) LIMITED TO ELIGIBLE PROJECTS.—Any apportionment transferred under this subsection shall be made available only for eligible job access and reverse commute projects as described in this section.

(3) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

(f) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

(g) COORDINATION.—

(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

(2) WITH NONPROFIT PROVIDERS.—A State that transfers funds to an apportionment under section 5336 pursuant to subsection (e) shall certify to the Secretary that any project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

(3) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary that—

(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

(h) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

(3) REMAINDER.—The remainder of the net project costs—

(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

(i) PROGRAM EVALUATION.—

(1) COMPTROLLER GENERAL.—Beginning one year after the date of enactment of the Federal Public Transportation Act of 2005, and every 2 years thereafter, the Comptroller General shall—

(A) conduct a study to evaluate the grant program authorized by this section; and

(B) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).

(2) DEPARTMENT OF TRANSPORTATION.—Not later than 3 years after the date of enactment of[1] Federal Public Transportation Act of 2005, the Secretary shall—

[1] So in original. Probably should be followed by ''the''.

(A) conduct a study to evaluate the effectiveness of the grant program authorized by this section and the effectiveness of recipients making grants to subrecipients under this section; and

(B) transmit to the committees referred to in paragraph (1)(B) a report describing the results of the study under subparagraph (A).

(Added Pub. L. 109–59, title III, § 3018(a), Aug. 10, 2005, 119 Stat. 1601.)

REFERENCES IN TEXT

Section 132 of the Internal Revenue Code of 1986, referred to in subsec. (a)(1)(D), is classified to section 132 of Title 26, Internal Revenue Code.

The Social Security Act, referred to in subsec. (a)(6), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The date of enactment of the Federal Public Transportation Act of 2005, referred to in subsec. (i), is the date of enactment of title III of Pub. L. 109–59, which was approved Aug. 10, 2005.

PRIOR PROVISIONS

A prior section 5316, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 814; Pub. L. 104–59, title III, § 338(c)(5), Nov. 28, 1995, 109 Stat. 605, related to university research institutes, prior to repeal by Pub. L. 105–178, title V, § 5110(c), June 9, 1998, 112 Stat. 444.

## § 5317. New freedom program

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) RECIPIENT.—The term ''recipient'' means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

(2) SUBRECIPIENT.—The term ''subrecipient'' means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

(b) GENERAL AUTHORITY.—

(1) GRANTS.—The Secretary may make grants under this section to a recipient for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

(c) APPORTIONMENTS.—

(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

(i) the number of individuals with disabilities in each such urbanized area; bears to

(ii) the number of individuals with disabilities in all such urbanized areas.

(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in each State; bears to

(ii) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in all States.

(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of individuals with disabilities in other than urbanized areas in each State; bears to

(ii) the number of individuals with disabilities in other than urbanized areas in all States.

(2) USE OF APPORTIONED FUNDS.—Funds apportioned under paragraph (1) shall be used for projects as follows:

(A) Funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more.

(B) Funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000.

(C) Funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

(3) TRANSFERS.—

(A) IN GENERAL.—A State may transfer any funds apportioned to it under paragraph (1)(B) or (1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

(B) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to this paragraph shall be made available only for eligible projects selected under this section.

(C) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to

the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

(e) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant under this section shall be subject to all the requirements of section 5310 to the extent the Secretary considers appropriate.

(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

(f) COORDINATION.—

(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

(2) WITH NONPROFIT PROVIDERS.—A recipient that transfers funds to an apportionment under section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

(3) PROJECT SELECTION AND PLANNING.—Beginning in fiscal year 2007, a recipient of funds under this section shall certify that—

(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

(g) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

(3) REMAINDER.—The remainder of the net project costs—

(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

(Added Pub. L. 109–59, title III, § 3019(a), Aug. 10, 2005, 119 Stat. 1605.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(1), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, 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.

PRIOR PROVISIONS

A prior section 5317, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 815; Pub. L. 104–287, § 5(14), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, § 3029(b)(7), June 9, 1998, 112 Stat. 372, related to transportation centers, prior to repeal by Pub. L. 105–178, title V, § 5110(c), June 9, 1998, 112 Stat. 444.

## § 5318. Bus testing facility

(a) FACILITY.—The Secretary shall maintain one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.

(b) OPERATION AND MAINTENANCE.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to, a qualified person or organization to operate and maintain the facility. The contract, cooperative agreement, or grant may provide for the testing of rail cars and other public transportation vehicles at the facility.

(c) FEES.—The person operating and maintaining the facility shall establish and collect fees for the testing of vehicles at the facility. The Secretary must approve the fees.

(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to, the operator of the facility under which the Secretary shall pay 80 percent of the cost of testing a vehicle at the facility from amounts available to carry out this section. The entity having the vehicle tested shall pay 20 percent of the cost.

(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if a bus of that model has been tested at the facility maintained by the Secretary under subsection (a).

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 817; Pub. L. 103–429, § 6(8), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 105–178, title III, §§ 3018, 3029(b)(8), June 9, 1998, 112 Stat. 361, 372; Pub. L. 109–59, title III, §§ 3002(b)(4), 3020, Aug. 10, 2005, 119 Stat. 1545, 1608.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5318(a) ..... | 49 App.:1608 (note). | Apr. 2, 1987, Pub. L. 100–17, § 317(b)(1), 101 Stat. 233; Dec. 18, 1991, Pub. L. 102–240, § 6021(b), 105 Stat. 2184. |

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

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5318(b) ..... | 49 App.:1608 (note). | Apr. 2, 1987, Pub. L. 100–17, § 317(b)(2), 101 Stat. 233. |
| 5318(c) ..... | 49 App.:1608 (note). | Apr. 2, 1987, Pub. L. 100–17, § 317(b)(3), 101 Stat. 233. |
| 5318(d) ..... | 49 App.:1602(m) (2d–last sentences). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(m) (2d–last sentences); added Dec. 18, 1991, Pub. L. 102–240, § 3009, 105 Stat. 2093. |
| 5318(e) ..... | 49 App.:1608 (note). | Apr. 2, 1987, Pub. L. 100–17, § 317(b)(5), 101 Stat. 233; Dec. 18, 1991, Pub. L. 102–240, § 6021(c), 105 Stat. 2184. |
| | 49 App.:1608 (note). | Apr. 2, 1987, Pub. L. 100–17, 101 Stat. 132, § 317(b)(6); added Dec. 18, 1991, Pub. L. 102–240, § 6021(d), 105 Stat. 2184. |

In subsection (c), the words ''Under the contract entered into under paragraph (2)'' are omitted as surplus.

In subsection (d), the words ''to the operator of the facility'' are omitted as surplus.

In subsection (e), the text of section 317(b)(5) of the Surface Transportation and Relocation Assistance Act of 1987 (Public Law 100–17, 101 Stat. 132) is omitted as obsolete. The words ''operating and maintaining the facility'' are substituted for ''described in paragraph (3)'' for clarity.

PUB. L. 103–429

This amends 49:5318(e) to correct an erroneous cross-reference.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59, § 3020(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''The Secretary of Transportation shall establish one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise. The facility shall be established by renovating a facility built with assistance of the United States Government to train rail personnel.''

Subsec. (b). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (d). Pub. L. 109–59, § 3020(b), substituted ''to carry out this section'' for ''under section 5309(m)(1)(C) of this title''.

Subsec. (e). Pub. L. 109–59, § 3020(c), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: ''The Secretary has a bus testing revolving loan fund consisting of amounts authorized for the fund under section 317(b)(5) of the Surface Transportation and Uniform Relocation Assistance Act of 1987. The Secretary shall make available as repayable advances from the fund to the person operating and maintaining the facility amounts to operate and maintain the facility.''

1998—Subsec. (b). Pub. L. 105–178, § 3018(a), substituted ''enter into a contract or cooperative agreement with, or make a grant to,'' for ''make a contract with'' and inserted ''or organization'' after ''qualified person'', '', cooperative agreement, or grant'' after ''The contract'', and ''mass transportation'' after ''and other''.

Subsec. (d). Pub. L. 105–178, §§ 3018(b), 3029(b)(8), substituted ''enter into a contract or cooperative agreement with, or make a grant to,'' for ''make a contract with'' and ''5309(m)(1)(C) of this title'' for ''5338(j)(5) of this title''.

1994—Subsec. (e). Pub. L. 103–429 inserted ''Uniform'' before ''Relocation''.

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.

## § 5319. Bicycle facilities

A project to provide access for bicycles to public transportation facilities, to provide shelters and parking facilities for bicycles in or around public transportation facilities, or to install equipment for transporting bicycles on public transportation vehicles is a capital project eligible for assistance under sections 5307, 5309, and 5311 of this title. Notwithstanding sections 5307(e), 5309(h), and 5311(g) of this title, a grant of the United States Government under this chapter for a project made eligible by this section is for 90 percent of the cost of the project, except that, if the grant or any portion of the grant is made with funds required to be expended under section 5307(d)(1)(K) and the project involves providing bicycle access to public transportation, that grant or portion of that grant shall be at a Federal share of 95 percent.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 818; Pub. L. 105–178, title III, § 3019, June 9, 1998, 112 Stat. 362; Pub. L. 109–59, title III, § 3002(b)(4), Aug. 10, 2005, 119 Stat. 1545; Pub. L. 110–244, title II, § 201(h), June 6, 2008, 122 Stat. 1610.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5319 ..... | 49 App.:1621. | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 25; added Apr. 2, 1987, Pub. L. 100–17, § 326, 101 Stat. 237. |

The words ''For purposes of this chapter'' and ''racks or other'' are omitted as surplus. The word ''grant'' is substituted for ''share'' for consistency in this chapter.

AMENDMENTS

2008—Pub. L. 110–244 substituted ''section 5307(d)(1)(K)'' for ''section 5307(k)''.

2005—Pub. L. 109–59 substituted ''public transportation'' for ''mass transportation'' wherever appearing.

1998—Pub. L. 105–178 substituted ''made eligible by this section is for 90 percent of the cost of the project, except that, if the grant or any portion of the grant is made with funds required to be expended under section 5307(k) and the project involves providing bicycle access to mass transportation, that grant or portion of that grant shall be at a Federal share of 95 percent'' for ''under this section is for 90 percent of the cost of the project''.

## § 5320. Alternative transportation in parks and public lands

(a) PROGRAM NAME.—The program authorized by this section shall be known as the Paul S. Sarbanes Transit in Parks Program.

(b) IN GENERAL.—

(1) AUTHORIZATION.—

(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other agreement to carry out a qualified project under this section to enhance the protection of national parks and public lands and increase the enjoyment of those visiting the parks and public lands by—

(i) ensuring access to all, including persons with disabilities;

(ii) improving conservation and park and public land opportunities in urban areas

through partnering with State and local governments; and

(iii) improving park and public land transportation infrastructure.

(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intra-agency agreement, or other agreement for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

(3) ALTERNATIVE TRANSPORTATION FACILITIES AND SERVICES.—Projects receiving assistance under this section shall provide alternative transportation facilities and services that complement and enhance existing transportation services in national parks and public lands in a manner that is consistent with Department of Interior and other public land management policies regarding private automobile access to and in such parks and lands.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE AREA.—The term ''eligible area'' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

(A) a unit of the National Park System;

(B) a unit of the National Wildlife Refuge System;

(C) a recreational area managed by the Bureau of Land Management;

(D) a recreation area managed by the Bureau of Reclamation; and

(E) a unit of the National Forest System.

(2) FEDERAL LAND MANAGEMENT AGENCY.—The term ''Federal land management agency'' means a Federal agency that manages an eligible area.

(3) ALTERNATIVE TRANSPORTATION.—The term ''alternative transportation'' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service. Such term also includes a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft).

(4) QUALIFIED PARTICIPANT.—The term ''qualified participant'' means—

(A) a Federal land management agency; or

(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other governmental or nongovernmental participant.

(5) QUALIFIED PROJECT.—The term ''qualified project'' means a planning or capital project in or in the vicinity of an eligible area that—

(A) is an activity described in section 5302(a)(1), 5303, 5304, 5305, or 5309(b);

(B) involves—

(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of the Federal Public Transportation Act of 2005 with clean fuel vehicles; or

(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

(F) is any other alternative transportation project that—

(i) enhances the environment;

(ii) prevents or mitigates an adverse impact on a natural resource;

(iii) improves Federal land management agency resource management;

(iv) improves visitor mobility and accessibility and the visitor experience;

(v) reduces congestion and pollution (including noise pollution and visual pollution); or

(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

(d) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

(1) technical assistance in alternative transportation;

(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

(e) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(b)(2)(J) to administer this section and to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition

to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this chapter or any other provision of law.

(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 25 percent of the total amount made available to carry out this section under section 5338(b)(2)(J) for any fiscal year.

(4) TRANSFERS TO LAND MANAGEMENT AGENCIES.—The Secretary may transfer amounts available under paragraph (1) to the appropriate Federal land management agency to pay necessary costs of the agency for such activities described in paragraph (1) in connection with activities being carried out under this section.

(f) PLANNING PROCESS.—In undertaking a qualified project under this section—

(1) if the qualified participant is a Federal land management agency—

(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

(i) the metropolitan planning provisions under section 5303;

(ii) the statewide planning provisions under section 5304; and

(iii) the public participation requirements under section 5307(d); and

(B) in the case of a qualified project that is at a unit of the National Park System, the planning process shall be consistent with the general management plans of the unit of the National Park System; and

(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

(A) comply with the metropolitan planning provisions under section 5303;

(B) comply with the statewide planning provisions under section 5304;

(C) comply with the public participation requirements under section 5307(d); and

(D) consult with the appropriate Federal land management agency during the planning process.

(g) COST SHARING.—

(1) GOVERNMENT'S SHARE.—The Secretary, in cooperation with the Secretary of the Interior, shall establish the Government's share of the net project cost to be provided to a qualified participant under this section.

(2) CONSIDERATIONS.—In establishing the Government's share of the net project cost to be provided under this section, the Secretary shall consider—

(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

(D) the clear and direct benefit to the qualified participant; and

(E) any other matters that the Secretary considers appropriate to carry out this section.

(3) SPECIAL RULE.—Notwithstanding any other provision of law, funds appropriated to any Federal land management agency may be counted toward the remainder of the net project cost.

(h) SELECTION OF QUALIFIED PROJECTS.—

(1) IN GENERAL.—The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

(2) CONSIDERATIONS.—In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

(B) the location of the qualified project, to ensure that the selected qualified projects—

(i) are geographically diverse nationwide; and

(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

(C) the size of the qualified project, to ensure that there is a balanced distribution;

(D) the historical and cultural significance of a qualified project;

(E) safety;

(F) the extent to which the qualified project would—

(i) enhance livable communities;

(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

(iii) reduce congestion; and

(iv) improve the mobility of people in the most efficient manner; and

(G) any other matters that the Secretary of the Interior considers appropriate to carry out this section, including—

(i) visitation levels;

(ii) the use of innovative financing or joint development strategies; and

(iii) coordination with gateway communities.

(i) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

(1) IN GENERAL.—When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

(A) the qualified participant applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

(2) FINANCING COSTS.—

(A) IN GENERAL.—The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

(B) LIMITATION ON AMOUNT OF INTEREST.—The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

(C) CERTIFICATION.—The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

(j) RELATIONSHIP TO OTHER LAWS.—

(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

(2) OTHER REQUIREMENTS.—A qualified participant under this section shall be subject to any other requirements that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—

(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement in accordance with section 5309(g); and

(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

(k) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

(*l*) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

(1) GRANTS AND OTHER ASSISTANCE.—The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other agreements for research, development, and deployment of new technologies in eligible areas that will—

(A) conserve resources;

(B) prevent or mitigate adverse environmental impact;

(C) improve visitor mobility, accessibility, and enjoyment; and

(D) reduce pollution (including noise pollution and visual pollution).

(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

(3) FUNDING.—Grants, cooperative agreements, contracts, and other agreements under paragraph (1) shall be awarded from amounts allocated under subsection (e)(1).

(m) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a State infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

(n) REPORTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(B) the Committee on Transportation and Infrastructure of the House of Representatives; and

(C) the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) ANNUAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(k)(1).

(Added Pub. L. 109–59, title III, § 3021(a), Aug. 10, 2005, 119 Stat. 1608; amended Pub. L. 110–244, title II, § 201(i), June 6, 2008, 122 Stat. 1610.)

REFERENCES IN TEXT

The date of enactment of the Federal Public Transportation Act of 2005, referred to in subsec. (c)(5)(B)(i), is the date of enactment of title III of Pub. L. 109–59, which was approved Aug. 10, 2005.

PRIOR PROVISIONS

A prior section 5320, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 818; Pub. L. 103–429, § 6(9), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 105–178, title III, § 3009(h)(3)(A), June 9, 1998, 112 Stat. 356; Pub. L. 105–206, title IX, § 9009(h)(1), July 22, 1998, 112 Stat. 856, related to construction of a suspended light rail system technology pilot project, prior to repeal by Pub. L. 109–59, title III, § 3021(a), Aug. 10, 2005, 119 Stat. 1608.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–244, § 201(i)(7), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (a)(1)(A). Pub. L. 110–244, § 201(i)(1), substituted ''intraagency'' for ''intra-agency'' in introductory provisions.

Subsec. (b). Pub. L. 110–244, § 201(i)(6), redesignated subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (b)(5)(A). Pub. L. 110–244, § 201(i)(2), substituted ''5302(a)(1)'' for ''5302(a)(1)(A)''.

Subsec. (c). Pub. L. 110–244, § 201(i)(6), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 110–244, § 201(i)(6), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 110–244, § 201(i)(3), inserted ''to administer this section and'' after ''5338(b)(2)(J)''.

Subsec. (d)(4). Pub. L. 110–244, § 201(i)(4), added par. (4).

Subsecs. (e) to (j). Pub. L. 110–244, § 201(i)(6), redesignated subsecs. (d) to (i) as (e) to (j), respectively. Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 110–244, § 201(i)(6), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (*l*).

Subsec. (k)(3). Pub. L. 110–244, § 201(i)(5), substituted ''subsection (e)(1)'' for ''subsection (d)(1)''.

Subsecs. (*l*) to (n). Pub. L. 110–244, § 201(i)(6), redesignated subsecs. (k) to (m) as (*l*) to (n), respectively.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

## § 5321. Crime prevention and security

The Secretary of Transportation may make capital grants from amounts available under section 5338 of this title to public transportation systems for crime prevention and security. This chapter does not prevent the financing of a project under this section when a local governmental authority other than the grant applicant has law enforcement responsibilities.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 820; Pub. L. 109–59, title III, § 3002(b)(4), Aug. 10, 2005, 119 Stat. 1545.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5321 ..... | 49 App.:1620. | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 24; added Apr. 2, 1987, Pub. L. 100–17, § 325, 101 Stat. 237. |

AMENDMENTS

2005—Pub. L. 109–59 substituted ''public transportation'' for ''mass transportation''.

REGULATIONS

Pub. L. 109–59, title III, § 3028(c), Aug. 10, 2005, 119 Stat. 1624, provided that: ''Not later than 180 days after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] and the Secretary of Homeland Security shall issue jointly final regulations to establish the characteristics of and requirements for public transportation security grants, including funding priorities, eligible activities, methods for awarding grants, and limitations on administrative expenses.''

PUBLIC TRANSPORTATION SECURITY

Pub. L. 109–59, title III, § 3028(b), Aug. 10, 2005, 119 Stat. 1624, provided that:

''(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall execute an annex to the memorandum of understanding between the Secretary and the Secretary of Homeland Security, dated September 28, 2004, to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

''(2) CONTENTS.—The annex to be executed under paragraph (1) shall—

''(A) establish a process to develop security standards for public transportation agencies;

''(B) create a method of direct coordination with public transportation agencies on security matters;

''(C) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security; and

''(D) include a formal and permanent mechanism to ensure coordination and involvement by the Department of Transportation, as appropriate, in public transportation security.''

## § 5322. Human resource programs

(a) IN GENERAL.—The Secretary of Transportation may undertake, or make grants and contracts for, programs that address human resource needs as they apply to public transportation activities. A program may include—

(1) an employment training program;

(2) an outreach program to increase minority and female employment in public transportation activities;

(3) research on public transportation personnel and training needs; and

(4) training and assistance for minority business opportunities.

(b) FELLOWSHIPS.—

(1) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to States, local governmental authorities, and operators of public transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the public transportation field.

(2) TERMS.—

(A) PERIOD OF TRAINING.—A fellowship under this subsection may not be for more than 1 year of training in an institution that offers a program applicable to the public transportation industry.

(B) SELECTION OF INDIVIDUALS.—A recipient of a grant for a fellowship under this subsection shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient public transportation operation.

(C) AMOUNT.—A grant for a fellowship under this subsection may not be more than the lesser of $65,000 or 75 percent of the sum of—

(i) tuition and other charges to the fellowship recipient;

(ii) additional costs incurred by the training institution and billed to the grant recipient; and

(iii) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 820; Pub. L. 109–59, title III, §§ 3002(b)(4), 3022, Aug. 10, 2005, 119 Stat. 1545, 1614.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5322 ..... | 49 App.:1616. | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 20; added Nov. 6, 1978, Pub. L. 95–599, § 315, 92 Stat. 2751. |

In this section, before clause (1), the word ''make'' is substituted for ''provide financial assistance by'' to eliminate unnecessary words. The words ''national and local'' are omitted as surplus. The text of 49 App.:1616 (last sentence) is omitted as surplus.

AMENDMENTS

2005—Pub. L. 109–59, § 3022, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' wherever appearing.

### § 5323. General provisions on assistance

(a) INTERESTS IN PROPERTY.—

(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

(C) just compensation under State or local law will be paid to the company for its franchise or property.

(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

(b) NOTICE AND PUBLIC HEARING.—

(1) IN GENERAL.—For a capital project that will substantially affect a community, or the public transportation service of a community, an applicant shall—

(A) provide an adequate opportunity for public review and comment on the project;

(B) after providing notice, hold a public hearing on the project if the project affects significant economic, social, or environmental interests;

(C) consider the economic, social, and environmental effects of the project; and

(D) find that the project is consistent with official plans for developing the community.

(2) NOTICE.—Notice of a hearing under this subsection—

(A) shall include a concise description of the proposed project; and

(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.

(3) APPLICATION REQUIREMENTS.—An application for a grant under this chapter for a capital project described in paragraph (1) shall include—

(A) a certification that the applicant has complied with the requirements of this subsection; and

(B) in the environmental record for the project, evidence that the applicant has complied with the requirements of this subsection.

(c) FARES NOT REQUIRED.—This chapter does not require that elderly individuals and individuals with disabilities be charged a fare.

(d) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

(2) VIOLATIONS.—

(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5309.

(4) PILOT PROGRAM FOR URBANIZED AREAS.—

(A) IN GENERAL.—The Secretary shall establish a pilot program to reimburse not to exceed 10 eligible recipients for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307.

(B) REPORT.—Not later than July 31, 2008, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status and effectiveness of the pilot program established under subparagraph (A).

(f) SCHOOLBUS TRANSPORTATION.—

(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system;

(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates; and

(C) to a State or local governmental authority if it or a direct predecessor in interest from which it acquired the duty of transporting school children and personnel, and facilities to transport them, provided schoolbus transportation at any time after November 25, 1973, but before November 26, 1974.

(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

(g) BUYING BUSES UNDER OTHER LAWS.—Subsections (d) and (f) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23. However, subsection (f)(1)(C) of this section applies to sections 133 and 142 only if schoolbus transportation was provided at any time after August 12, 1972, but before August 13, 1973.

(h) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

(1) pay ordinary governmental or nonproject operating expenses; or

(2) support a procurement that uses an exclusionary or discriminatory specification.

(i) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—

(1) EQUIPMENT FOR ADA AND CLEAN AIR ACT COMPLIANCE.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

(2) CERTAIN STATE OWNED RAILROADS.—The Government share for financial assistance under this chapter to a State-owned railroad (as defined in section 603 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 1202)) shall be the same as the Government share under section 120(b) of title 23 for Federal-aid highway funds apportioned to the State in which the railroad operates.

(j) BUY AMERICA.—(1) The Secretary of Transportation may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(2) The Secretary of Transportation may waive paragraph (1) of this subsection if the Secretary finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

(ii) final assembly of the rolling stock has occurred in the United States; or

(D) including domestic material will increase the cost of the overall project by more than 25 percent.

(3) WRITTEN JUSTIFICATION FOR PUBLIC INTEREST WAIVER.—When issuing a waiver based on a public interest determination under paragraph (2)(A), the Secretary shall issue a detailed written justification as to why the waiver is in the public interest. The Secretary shall publish such justification in the Federal Register and provide the public with a reasonable period of time for notice and comment.

(4) In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

(5) The Secretary of Transportation may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

(B) has violated the agreement by discriminating against goods to which this subsection

applies that are produced in the United States and to which the agreement applies.

(6) A person is ineligible under subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2005 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) affixed a ''Made in America'' label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

(B) represented that goods described in clause (A) of this paragraph were produced in the United States.

(7) The Secretary of Transportation may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

(8) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

(k) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—To the extent feasible, governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services—

(1) shall participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

(2) shall be included in the planning for those services.

(*l*) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.

(m) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary of Transportation shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (j) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

(n) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

(*o*) GRANT REQUIREMENTS.—The grant requirements under sections 5307 and 5309 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

(p) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

(1) the incidental use does not interfere with the recipient's public transportation operations;

(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

(4) private entities pay all applicable excise taxes on fuel.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 821; Pub. L. 103–429, § 6(10), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–287, § 5(15), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, § 3020, June 9, 1998, 112 Stat. 362; Pub. L. 109–59, title III, §§ 3002(b)(4), 3023(a)–(i)(3), (j)–(m), Aug. 10, 2005, 119 Stat. 1545, 1615–1619; Pub. L. 110–244, title II, § 201(j), June 6, 2008, 122 Stat. 1611.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5323(a)(1) .... | 49 App.:1602(e). | July 9, 1964, Pub. L. 88–365, § 3(e), 78 Stat. 303; Sept. 8, 1966, Pub. L. 89–562, § 2(b)(1), 80 Stat. 716; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(1), 84 Stat. 962; Nov. 6, 1978, Pub. L. 95–599, § 302(c), 92 Stat. 2737. |

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

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5323(a)(2) .... | 49 App.:1608(e). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(e), (g); added Nov. 6, 1978, Pub. L. 95–599, §308(d), 92 Stat. 2747. |
| 5323(b) ..... | 49 App.:1602(d). | July 9, 1964, Pub. L. 88–365, §3(d), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 964. |
| 5323(c) ..... | 49 App.:1608(h)(1). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(h)(1); added Apr. 2, 1987, Pub. L. 100–17, §317(a), 101 Stat. 233. |
| 5323(d) ..... | 49 App.:1602(f). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(f); added Jan. 4, 1974, Pub. L. 93–650, §1(a), 89 Stat. 2–1; Aug. 22, 1974, Pub. L. 93–383, §813(a), 88 Stat. 737; Nov. 26, 1974, Pub. L. 93–503, §109(b), 88 Stat. 1573. |
| 5323(e) ..... | 49 App.:1608(g). | |
| 5323(f) ..... | 49 App.:1602(g). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(g); added Nov. 26, 1974, Pub. L. 93–503, §109(a), 88 Stat. 1572. |
| 5323(g) ..... | 49 App.:1602a. | Aug. 13, 1973, Pub. L. 93–87, §164, 87 Stat. 281; Jan. 4, 1974, Pub. L. 93–650, §1(b), 89 Stat. 2–1; Aug. 22, 1974, Pub. L. 93–383, §813(b), 88 Stat. 737. |
| 5323(h) ..... | 49 App.:1602(a)(2)(C). | July 9, 1964, Pub. L. 88–365, §3(a)(2)(C), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95–599, §302(a), 92 Stat. 2736. |
| 5323(i) ..... | 49 App.:1608(m). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(m); added Dec. 18, 1991, Pub. L. 102–240, §3020, 105 Stat. 2110. |
| 5323(j)(1) .... | 23:101 (note). | Jan. 6, 1983, Pub. L. 97–424, §165(a) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2136; Mar. 9, 1984, Pub. L. 98–229, §10, 98 Stat. 57; Dec. 18, 1991, Pub. L. 102–240, §1048(a), 105 Stat. 1999. |
| 5323(j)(2) .... | 23:101 (note). | Jan. 6, 1983, Pub. L. 97–424, §165(b) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137; Apr. 2, 1987, Pub. L. 100–17, §§133(a)(6), 337(a)(1), (b), (c), 101 Stat. 171, 241. |
| 5323(j)(3) .... | 23:101 (note). | Jan. 6, 1983, Pub. L. 97–424, §165(c) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137. |
| 5323(j)(4) .... | 23:101 (note). | Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §165(g) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102–240, §1048(b), 105 Stat. 2000. |
| 5323(j)(5) .... | 23:101 (note). | Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §165(f) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102–240, §1048(b), 105 Stat. 1999. |
| 5323(j)(6) .... | 23:101 (note). | Jan. 6, 1983, Pub. L. 97–424, §165(d) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137. |

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

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5323(j)(7) .... | 23:101 (note). | Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §165(e) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102–240, §1048(b), 105 Stat. 1999. |
| 5323(k) ..... | 49 App.:1607(q). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(q); added Oct. 6, 1992, Pub. L. 102–388, §502(i), 106 Stat. 1566. |

In subsection (a)(1), before clause (A), the words ''directly or indirectly'', ''any facilities or other'', ''reconstructing'', and ''for the purpose of providing by contract or otherwise'' are omitted as surplus. In clause (C), the words ''and adequate'', ''acquisition of'', and ''applicable'' are omitted as surplus. In clause (D), the words ''the requirements of'' are omitted as surplus.

In subsection (a)(2), the words ''may not use'' are substituted for ''None of the provisions of this chapter shall be construed to authorize'' to eliminate unnecessary words. The words ''the purpose of financing'' are omitted as surplus.

In subsections (b)(1), (c), and (e), the words ''except section 5307'' are added for clarity because of 49 App.:1607a(e)(1), restated as section 5307(n)(2) of the revised title.

In subsection (b)(1), before clause (A), the word ''reconstruction'' is omitted as surplus. In clause (B), the words ''in the matter'' are omitted as surplus. In clause (C), the word ''environmental'' is substituted for ''and its impact on the environment'' to eliminate unnecessary words. In clause (D), the word ''comprehensive'' is omitted as surplus.

In subsection (b)(2), the word ''description'' is substituted for ''statement'' for clarity.

In subsections (d)–(f) and (h), the word ''Federal'' is omitted as surplus.

In subsections (d) and (f), the word ''provide'' is substituted for ''engage in'', and the word ''transportation'' is substituted for ''operations'', for consistency.

In subsection (d)(1), the words ''with the Secretary'', ''and equitable'', and ''publicly and privately owned'' are omitted as surplus.

In subsection (d)(2), the words ''alleged'', ''take appropriate action to'', ''and conditions'', and ''for mass transportation facilities and equipment'' are omitted as surplus.

In subsection (e), the words ''This subsection shall apply to'' and ''which is acquiring such buses'' are omitted as surplus. The words ''occurring on or after November 6, 1978'' are omitted as executed. The words ''In the case of'' are omitted as surplus. The words ''may include'' are substituted for ''the Secretary shall permit . . . to provide in advertising for bids for'' to eliminate unnecessary words.

In subsection (f)(1), before clause (A), the words ''for use in providing public'', ''to any applicant for such assistance'', and ''and the Secretary'' are omitted as surplus. The word ''agrees'' is substituted for ''shall have first entered into an agreement that such applicant'' to eliminate unnecessary words. In clause (A), the words ''with respect to operation of a schoolbus program'' are omitted as surplus.

Subsection (g) is substituted for 49 App.:1602a to eliminate unnecessary words.

In subsection (j), the word ''goods'' is substituted for ''products'' for consistency.

In subsection (j)(1), the words ''Notwithstanding any other provision of law'' are omitted as surplus.

In subsection (j)(2), before clause (A), the words ''The Secretary of Transportation may waive'' are substituted for ''shall not apply'' for clarity. In clause (B), the words ''steel, iron, and goods'' are substituted for

''materials and products'' for consistency. In clause (C), before subclause (i), the words ''bus and other'' are omitted as surplus. In subclauses (i) and (ii), the words ''rolling stock'' are substituted for ''vehicle or equipment'' for consistency. In clause (D), the word ''contract'' is omitted as surplus.

In subsection (j)(4), before clause (A), the words ''The Secretary of Transportation may not make a waiver under'' are substituted for ''shall not apply'' for clarity. The words ''government of a foreign country'' are substituted for ''foreign country'', and the word ''Government'' is added, for consistency in the revised title and with other titles of the United States Code.

In subsection (j)(5), before clause (A), the words ''the debarment, suspension, and ineligibility procedures in'' are omitted as surplus. 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 Code. In clause (A), the word ''produced'' is substituted for ''made'' for consistency.

In subsection (k), the word ''statewide'' is omitted as surplus.

PUB. L. 103–429, § 6(10)(A)

This makes a clarifying amendment to the catchline for 49:5323(j).

PUB. L. 103–429, § 6(10)(B)

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5323(*l*) ..... | 49 App.:1608(j). | July 9, 1964, Pub. L. 88–365, § 12(j), as added Apr. 2, 1987, Pub. L. 100–17, § 319, 101 Stat. 234. |

The word ''review'' is substituted for ''audit'' for clarity. The words ''buses and other'' are omitted as surplus.

PUB. L. 104–287

This amends 49:5315(d), 5317(b)(5), and 5323(b)(1), (c), and (e) to correct erroneous cross-references.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (i)(1), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, 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 subsec. (i)(1), 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.

The Federal Public Transportation Act of 2005, referred to in subsec. (j)(6), is title III of Pub. L. 109–59, Aug. 10, 2005, 119 Stat. 1544. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 5101 of this title and Tables.

AMENDMENTS

2008—Subsec. (n). Pub. L. 110–244 substituted ''section 5336(d)(2)'' for ''section 5336(e)(2)''.

2005—Subsec. (a)(1). Pub. L. 109–59, § 3023(a)(1), inserted heading and text of par. (1) and struck out former par. (1) which authorized use of financial assistance provided under this chapter for certain purposes only if the Secretary finds the assistance is essential to a program of projects required under sections 5303–5306 of this title, the Secretary finds that the program, to the maximum extent feasible, provides for the participation of private companies, just compensation will be paid to the company for its franchise or property, and the Secretary of Labor certifies that the assistance complies with section 5333(b) of this title.

Subsec. (a)(2). Pub. L. 109–59, § 3023(a)(2), inserted heading.

Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (b). Pub. L. 109–59, § 3023(b), reenacted heading without change and amended text of subsec. (b) generally, substituting provisions relating to general requirements, notice, and application requirements, consisting of pars. (1) to (3), for provisions relating to application requirements and notice, consisting of pars. (1) and (2).

Subsec. (c). Pub. L. 109–59, § 3023(c), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''Amounts appropriated or made available under this chapter after September 30, 1989, may be obligated or expended to acquire a new bus model only if a bus of the model has been tested at the facility established under section 5318 of this title.''

Subsec. (d)(1). Pub. L. 109–59, § 3023(d)(1), inserted heading.

Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' in two places.

Subsec. (d)(2). Pub. L. 109–59, § 3023(d)(2), inserted heading and text of par. (2) and struck out former par. (2) which read as follows: ''On receiving a complaint about a violation of an agreement, the Secretary of Transportation shall investigate and decide whether a violation has occurred. If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement. In addition to a remedy specified in the agreement, the Secretary may bar a recipient under this subsection or an operator from receiving further assistance when the Secretary finds a continuing pattern of violations of the agreement.''

Subsec. (e). Pub. L. 109–59, § 3023(e), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: ''The initial advertising by a State or local governmental authority for bids to acquire buses using financial assistance under this chapter may include passenger seat functional specifications that are at least equal to performance specifications the Secretary of Transportation prescribes. The specifications shall be based on a finding by the State or local governmental authority of local requirements for safety, comfort, maintenance, and life cycle costs.''

Subsec. (f). Pub. L. 109–59, § 3023(f), in par. (1) inserted heading and realigned margins, added par. (2), and struck out former par. (2) which read as follows: ''An applicant violating an agreement under this subsection may not receive other financial assistance under this chapter.''

Subsec. (f)(1). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' in two places in introductory provisions.

Subsec. (g). Pub. L. 109–59, § 3023(g), substituted ''133 and 142'' for ''103(e)(4) and 142(a) or (c)'' in two places.

Subsec. (i). Pub. L. 109–59, § 3023(h), substituted ''Government's'' for ''Government'' in subsec. heading, designated existing provisions as par. (1), inserted par. heading, inserted ''or facilities'' after ''equipment'' wherever appearing, and added par. (2).

Subsec. (j)(3) to (5). Pub. L. 109–59, § 3023(i)(1), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively. Former par. (5) redesignated (6).

Subsec. (j)(6). Pub. L. 109–59, § 3023(i)(1)(A), (2), redesignated par. (5) as (6) and substituted ''Federal Public Transportation Act of 2005'' for ''Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)'' in introductory provisions. Former par. (6) redesignated (7).

Subsec. (j)(7), (8). Pub. L. 109–59, § 3023(i)(1)(A), redesignated pars. (6) and (7) as (7) and (8), respectively.

Subsec. (j)(9). Pub. L. 109–59, § 3023(i)(3), added par. (9).

Subsec. (*l*). Pub. L. 109–59, § 3023(j), amended heading and text of subsec. (*l*) generally. Prior to amendment, text read as follows: ''The planning and programming requirements of section 135 of title 23 apply to a grant made under sections 5307–5311 of this title.''

Subsec. (m). Pub. L. 109–59, § 3023(k), inserted at end ''Rolling stock procurements of 20 vehicles or fewer

made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.''

Subsec. (*o*). Pub. L. 109–59, § 3023(*l*), substituted ''chapter 6 (other than section 609) of title 23'' for ''the Transportation Infrastructure Finance and Innovation Act of 1998''.

Subsec. (p). Pub. L. 109–59, § 3023(m), added subsec. (p).

1998—Subsec. (d). Pub. L. 105–178, § 3020(a), substituted ''Condition on Charter Bus Transportation Service'' for ''Buying and Operating Buses'' in heading.

Subsec. (i). Pub. L. 105–178, § 3020(c), amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: ''A Government grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment required by the Clean Air Act (42 U.S.C. 7401 et seq.) or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is for 90 percent of the net project cost of the equipment that is attributable to complying with those Acts. The Secretary of Transportation, through practicable administrative procedures, may determine the costs attributable to that equipment.''

Subsec. (j)(7). Pub. L. 105–178, § 3020(b), inserted heading and amended text of par. (7) generally. Prior to amendment, text read as follows: ''Not later than January 1, 1995, the Secretary of Transportation shall submit to Congress a report on purchases from foreign entities waived under paragraph (2) of this subsection in the fiscal years ending September 30, 1992, and September 30, 1993. The report shall indicate the dollar value of items for which waivers were granted.''

Subsecs. (k) to (m). Pub. L. 105–178, § 3020(d), added subsec. (k) and redesignated former subsecs. (k) and (*l*) as (*l*) and (m), respectively.

Subsec. (n). Pub. L. 105–178, § 3020(e), added subsec. (n).

Subsec. (*o*). Pub. L. 105–178, § 3020(f), added subsec. (*o*).

1996—Subsecs. (b)(1), (c), (e). Pub. L. 104–287 struck out ''(except section 5307)'' after ''under this chapter''.

1994—Subsec. (j). Pub. L. 103–429, § 6(10)(A), substituted ''America'' for ''American'' in heading.

Subsec. (*l*). Pub. L. 103–429, § 6(10)(B), added subsec. (*l*).

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.

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.

RULEMAKING

Pub. L. 109–59, title III, § 3023(i)(5), Aug. 10, 2005, 119 Stat. 1618, provided that: ''Not later than 180 days after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall issue a final rule on implementation of the requirements of section 5323(j) of title 49, United States Code (in this paragraph referred to as the 'Buy America requirements'). The purposes of the regulations shall be as follows:

''(A) MICROPROCESSOR WAIVER.—To clarify that any waiver from the Buy America requirements issued under section 5323(j)(2) of such title for a microprocessor, computer, or microcomputer applies only to a device used solely for the purpose of processing or storing data and does not extend to a product containing a microprocessor, computer, or microcomputer.

''(B) DEFINITIONS.—To define the terms 'end product', 'negotiated procurement', and 'contractor' for purposes of part 661 of title 49, Code of Federal Regulations. In defining the terms, the Secretary shall develop a list of representative items that are subject to the Buy America requirements, and shall address the procurement of systems under the definition to ensure that major system procurements are not used to circumvent the Buy America requirements.

''(C) POST-AWARD WAIVERS.—To permit a grantee to request a non-availability waiver from the Buy America requirements under section 661.7c of title 49, Code of Federal Regulations, after contract award in any case in which the contractor has made a certification of compliance with the requirements in good faith.

''(D) CERTIFICATION UNDER NEGOTIATED PROCUREMENT PROCESS.—In any case in which a negotiated procurement process is used, compliance with the Buy America requirements shall be determined on the basis of the certification submitted with the final offer.''

FINAL ASSEMBLY OF BUSES

Pub. L. 105–178, title III, § 3035, June 9, 1998, 112 Stat. 387, provided that:

''(a) IN GENERAL.—All buses manufactured on or after September 1, 1999, that are purchased with Federal funds by recipients of assistance from the Federal Transit Administration shall conform with the Federal Transit Administration Guidance on Buy America Requirements, dated March 18, 1997.

''(b) RULE OF CONSTRUCTION.—For purposes of this section, a bus shall be considered to be manufactured on or after September 1, 1999, if the manufacturing process for that bus is not completed on or before August 31, 1999.''

## § 5324. Special provisions for capital projects

(a) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

(b) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

(1) COOPERATION AND CONSULTATION.—In carrying out the policy of section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

(2) PUBLIC PARTICIPATION IN ENVIRONMENTAL REVIEWS.—In performing environmental reviews, the Secretary shall review each transcript of a hearing submitted under section 5323(b) to establish that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that the project application includes a record of—

(A) the environmental impact of the proposal;

(B) adverse environmental effects that cannot be avoided;

(C) alternatives to the proposal; and

(D) irreversible and irretrievable impacts on the environment.

(3) APPROVAL OF APPLICATIONS FOR ASSISTANCE.—

(A) FINDINGS BY THE SECRETARY.—The Secretary may approve an application for financial assistance for a capital project in accordance with this chapter only if the Secretary makes written findings, after reviewing the application and the transcript of any

hearing held before a State or local governmental authority under section 5323(b), that—

(i) an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest;

(ii) the preservation and enhancement of the environment and the interest of the community in which the project is located were considered; and

(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

(B) HEARING.—If a hearing has not been conducted or the Secretary decides that the record of the hearing is inadequate for making the findings required by this subsection, the Secretary shall conduct a hearing on an environmental issue raised by the application after giving adequate notice to interested persons.

(C) AVAILABILITY OF FINDINGS.—The Secretary's findings under subparagraph (A) shall be made a matter of public record.

(c) RAILROAD CORRIDOR PRESERVATION.—

(1) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

(2) ENVIRONMENTAL REVIEWS.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 824; Pub. L. 109–59, title III, § 3024(a), Aug. 10, 2005, 119 Stat. 1619.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5324(a) ..... | 49 App.:1606(a). | July 9, 1964, Pub. L. 88–365, § 7(a), 78 Stat. 305; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25. |
| 5324(b)(1) .... | 49 App.:1610(a) (last sentence). | July 9, 1964, Pub. L. 88–365, § 14(a) (last sentence)–(c), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, § 2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, § 6, 84 Stat. 966. |
| 5324(b)(2) .... | 49 App.:1610(b). | |
| 5324(b)(3) .... | 49 App.:1610(c). | |
| 5324(c) ..... | 49 App.:1608(d). | July 9, 1964, Pub. L. 88–365, § 12(d), 78 Stat. 307; Aug. 10, 1965, Pub. L. 89–117, § 1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, § 2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Nov. 6, 1978, Pub. L. 95–599, § 308(c), 92 Stat. 2747. |

In subsection (a), before clause (1), the word "provided" is substituted for "extended" for clarity. The words "to any project" are omitted as surplus. In clause (2), the words "available . . . displaced" are omitted as surplus.

In subsection (b)(1), the words "Health and Human Services" are substituted for "Health, Education, and Welfare" in section 14(a) (last sentence) of the Urban Mass Transportation Act of 1964 (Public Law 88–365, 78 Stat. 308) [subsequently changed to the Federal Transit Act by section 3003(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2087)] because of 20:3508(b).

In subsection (b)(2), before clause (A), the words "In carrying out section 5306 of this title" are added for clarity and consistency with subsections (b)(3) and (c) of this section. The word "detailed" is omitted as surplus. In clause (B), the words "should the proposal be implemented" are omitted as surplus. In clause (D), the words "which may be involved in the proposed project should it be implemented" are omitted as surplus.

In subsection (b)(3)(A), before clause (i), the word "financial" is added for clarity. The words "full and complete" are omitted as surplus. In clause (ii), the word "fair" is omitted as surplus. In clause (iii), the word "either" is omitted as surplus.

In subsection (b)(3)(B), the words "before the State or local agency pursuant to section 1602(d) of this Appendix" and "before the State or local public agency . . . to permit him" are omitted as surplus.

In subsection (c), the words "The Secretary of Transportation may not" are substituted for "None of the provisions of this chapter shall be construed to authorize the Secretary to" to eliminate unnecessary words. The words "in any manner . . . mode of" and "rates, fares, tolls, rentals, or other . . . fixed or prescribed . . . by any local public or private transit agency" are omitted as surplus. The words "However, the Secretary may" are substituted for "but nothing in this subsection shall prevent the Secretary from taking such actions as may be necessary to" to eliminate unnecessary words. The words "local governmental authority, corporation, or association" are substituted for "agency or agencies" for consistency with sections 5309 and 5310 of the revised title.

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (a), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified generally to chapter 61 (§ 4601 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 4601 of Title 42 and Tables.

AMENDMENTS

2005—Pub. L. 109–59 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to requirements of a relocation program for families displaced by a project, consideration of economic, social, and environmental interests, and prohibition against regulating the operation of a mass transportation system for which a grant is made under section 5309 and regulating any charge for the system after a grant is made.

## § 5325. Contract requirements

(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

(1) PROCEDURES FOR AWARDING CONTRACT.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engi-

neering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement of a State adopted before August 10, 2005.

(2) ADDITIONAL REQUIREMENTS.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

(A) PERFORMANCE OF AUDITS.—Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

(B) INDIRECT COST RATES.—A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

(C) APPLICATION OF RATES.—After a firm's indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

(D) PRENOTIFICATION; CONFIDENTIALITY OF DATA.—A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

(d) DESIGN-BUILD PROJECTS.—

(1) TERM DEFINED.—In this subsection, the term ''design-build project''—

(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system, or an operable segment of such system, that meets specific performance criteria; and

(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

(2) FINANCIAL ASSISTANCE FOR CAPITAL COSTS.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

(e) MULTIYEAR ROLLING STOCK.—

(1) CONTRACTS.—A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for not more than 5 years after the date of the original contract.

(2) COOPERATION AMONG RECIPIENTS.—The Secretary shall allow at least two recipients to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

(f) ACQUIRING ROLLING STOCK.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

(1) based on—

(A) initial capital costs; or

(B) performance, standardization, life cycle costs, and other factors; or

(2) with a party selected through a competitive procurement process.

(g) EXAMINATION OF RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

(h) GRANT PROHIBITION.—A grant awarded under this chapter or the Federal Public Transportation Act of 2005 may not be used to support a procurement that uses an exclusionary or discriminatory specification.

(i) BUS DEALER REQUIREMENTS.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

(j) AWARDS TO RESPONSIBLE CONTRACTORS.—

(1) IN GENERAL.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

(2) CRITERIA.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

(A) the integrity of the contractor;

(B) the contractor's compliance with public policy;

(C) the contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(*l*)(2); and

(D) the contractor's financial and technical resources.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 825; Pub. L. 104–287, § 5(16), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, § 3022, June 9, 1998, 112 Stat. 363; Pub. L. 105–206, title IX, § 9009(n), July 22, 1998, 112 Stat. 857; Pub. L. 107–217, § 3(n)(2), Aug. 21, 2002, 116 Stat. 1302; Pub. L.

109–59, title III, § 3025(a), Aug. 10, 2005, 119 Stat. 1620; Pub. L. 110–244, title II, § 201(k), June 6, 2008, 122 Stat. 1611.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5325(a) ..... | 49 App.:1608(b)(1). | July 9, 1964, Pub. L. 88–365, § 12(b)(1), 78 Stat. 306; Sept. 8, 1966, Pub. L. 89–562, § 2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Nov. 6, 1978, Pub. L. 95–599, § 308(a)(1), 92 Stat. 2745. |
| 5325(b) ..... | 49 App.:1608(b)(2). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(b)(2); added Nov. 6, 1978, Pub. L. 95–599, § 308(a)(2), 92 Stat. 2745; restated Jan. 6, 1983, Pub. L. 97–424, § 308, 96 Stat. 2151. |
| 5325(c) ..... | 49 App.:1608(b)(3). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(b)(3); added Apr. 2, 1987, Pub. L. 100–17, § 315(a), 101 Stat. 232. |
| 5325(d) ..... | 49 App.:1608(b)(4). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(b)(4); added Apr. 2, 1987, Pub. L. 100–17, § 316, 101 Stat. 232. |

In subsection (a), the words ''reconstruction'', ''in furtherance of the purposes'', ''by applicants'', ''procedures as defined by the Secretary'', ''of the contracting parties'', and ''the operations or activities under'' are omitted as surplus. The words ''shall be made available to'' are substituted for ''shall . . . have access to'', and the words ''an officer or employee of the Secretary or Comptroller General'' are substituted for ''any of their duly authorized representatives'', for consistency in the revised title and with other titles of the United States Code.

Subsection (b) is substituted for 49 App.:1608(b)(2) for clarity. The text of 49 App.:1608(b)(2) (last sentence) is omitted as executed.

PUB. L. 104–287

This amends the catchline for 49:5325(d) to make a clarifying amendment.

REFERENCES IN TEXT

The Federal Public Transportation Act of 2005, referred to in subsec. (h), is title III of Pub. L. 109–59, Aug. 10, 2005, 119 Stat. 1544. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 5101 of this title and Tables.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110–244, § 201(k)(1), inserted ''adopted before August 10, 2005'' before period at end.

Subsec. (b)(2), (3). Pub. L. 110–244, § 201(k)(2), (3), redesignated par. (3) as (2) and struck out former par. (2). Text read as follows: ''Paragraph (1) does not apply to the extent a State has adopted by law, before the date of enactment of the Federal Public Transportation Act of 2005, an equivalent State qualifications-based requirement for contracting for architectural, engineering, and design services.''

2005—Pub. L. 109–59 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to noncompetitive bidding in subsec. (a), procedures for award of architectural, engineering, and design contracts in subsec. (b), and efficient procurement in subsec. (c).

2002—Subsec. (b). 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.)''.

1998—Subsec. (b). Pub. L. 105–178, § 3022(b), as added by Pub. L. 105–206, inserted ''or requirement'' after ''A contract'' and ''When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting nondisputed audits conducted by other governmental agencies, as provided in subparagraphs (C) through (F) of section 112(b)(2) of title 23, United States Code.'' before ''This subsection does not apply''.

Pub. L. 105–178, § 3022(a)(1), (2), redesignated subsec. (d) as (b) and struck out heading and text of former subsec. (b). Text read as follows: ''A recipient of financial assistance of the United States Government under this chapter may make a contract to expend that assistance to acquire rolling stock—

''(1) based on—

''(A) initial capital costs; or

''(B) performance, standardization, life cycle costs, and other factors; or

''(2) with a party selected through a competitive procurement process.''

Subsec. (c). Pub. L. 105–178, § 3022(a)(1), (3), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: ''A recipient of a grant under section 5307 of this title procuring an associated capital maintenance item under section 5307(b) may make a contract directly with the original manufacturer or supplier of the item to be replaced, without receiving prior approval of the Secretary, if the recipient first certifies in writing to the Secretary that—

''(1) the manufacturer or supplier is the only source for the item; and

''(2) the price of the item is no more than the price similar customers pay for the item.''

Subsec. (d). Pub. L. 105–178, § 3022(a)(2), redesignated subsec. (d) as (b).

1996—Subsec. (d). Pub. L. 104–287 substituted ''ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS'' for ''MANAGEMENT, ARCHITECTURAL, AND ENGINEERING CONTRACTS'' in heading.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

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.

### [§ 5326. Repealed. Pub. L. 109–59, title III, § 3025(b), Aug. 10, 2005, 119 Stat. 1622]

Section, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 826; Pub. L. 103–429, § 6(11), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 105–178, title III, § 3023(a), (b), June 9, 1998, 112 Stat. 364, related to turnkey system projects, acquisition of rolling stock, and procurement of associated capital maintenance items.

### § 5327. Project management oversight

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive United States Government financial assistance for a major capital project under this chapter or the National Capital Transportation Act of 1969 (Public Law 91–143, 83 Stat. 320), a recipient must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

(3) a construction schedule for the project;

(4) a document control procedure and recordkeeping system;

(5) a change order procedure that includes a documented, systematic approach to the handling of construction change orders;

(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

(8) material testing policies and procedures;

(9) internal plan implementation and reporting requirements;

(10) criteria and procedures to be used for testing the operational system or its major components;

(11) periodic updates of the plan, especially related to project budget and project schedule, financing, ridership estimates, and the status of local efforts to enhance ridership where ridership estimates partly depend on the success of those efforts;

(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month; and

(13) safety and security management.

(b) PLAN APPROVAL.—(1) The Secretary shall approve a plan not later than 60 days after it is submitted. If the approval cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

(2) The Secretary shall inform the recipient of the reasons when a plan is disapproved.

(c) LIMITATIONS.—

(1) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts to make contracts for the activities described in paragraph (2):

(A) 0.5 percent of amounts made available to carry out section 5305.

(B) 0.75 percent of amounts made available to carry out section 5307.

(C) 1 percent of amounts made available to carry out section 5309.

(D) 0.5 percent of amounts made available to carry out section 5310.

(E) 0.5 percent of amounts made available to carry out section 5311.

(F) 0.5 percent of amounts made available to carry out section 5320.

(2) ACTIVITIES.—Paragraph (1) shall apply to the following:

(A) Activities to oversee the construction of a major project.

(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under sections 5305, 5307, 5309, 5310, 5311, and 5320.

(C) Activities to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

(3) LIMITATIONS ON APPLICABILITY.—Subsections (a), (b), and (e) do not apply to contracts under this section for activities described in paragraphs (2)(B) and (2)(C).

(4) GOVERNMENT'S SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

(5) AVAILABILITY OF CERTAIN FUNDS.—Beginning in fiscal year 2006, funds available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement or project construction grant agreement.

(d) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter or section 14(b) of the National Capital Transportation Act of 1969 (Public Law 91–143, 83 Stat. 320), as added by section 2 of the National Capital Transportation Amendments of 1979 (Public Law 96–184, 93 Stat. 1320), shall provide the Secretary and a contractor the Secretary chooses under subsection (c) of this section with access to the construction sites and records of the recipient when reasonably necessary.

(e) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall include—

(1) a definition of ''major capital project'' for subsection (c) of this section that excludes a project to acquire rolling stock or to maintain or rehabilitate a vehicle; and

(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin the oversight during another stage of the project, to maximize the transportation benefits and cost savings associated with project management oversight.

(f) FINANCIAL PLAN.—A recipient of financial assistance for a project under this chapter with an estimated total cost of $1,000,000,000 or more shall submit to the Secretary an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 826; Pub. L. 103–429, § 6(12), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–287, § 5(17), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, § 3024, June 9, 1998, 112 Stat. 364; Pub. L. 109–59, title III, § 3026, Aug. 10, 2005, 119 Stat. 1622.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5327(a) ..... | 49 App.:1619(d), (e). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 23(b)–(g); added Apr. 2, 1987, Pub. L. 100–17, § 324, 101 Stat. 236. |

HISTORICAL AND REVISION NOTES—CONTINUED

PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5327(b) ..... | 49 App.:1619(g). | |
| 5327(c)(1) .... | 49 App.:1619(a). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 23(a); added Apr. 2, 1987, Pub. L. 100–17, § 324, 101 Stat. 235; Dec. 18, 1991, Pub. L. 102–240, § 3027, 105 Stat. 2115. |
| 5327(c)(2) .... | 49 App.:1619(h). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 23(h); added Nov. 21, 1989, Pub. L. 101–164, § 340, 103 Stat. 1099. |
| 5327(c)(3) .... | 49 App.:1619(b). | |
| 5327(d) ..... | 49 App.:1619(c). | |
| 5327(e) ..... | 49 App.:1619(f). | |

In subsection (a), before clause (1), the words ''as required in each case by the Secretary'' are omitted as surplus. In clause (11), the words ''such items as'' and ''where applicable'' are omitted as surplus.

In subsection (c)(1), the words ''Beginning October 1, 1987'' are omitted as executed. The words ''with any person'' are omitted as surplus.

In subsection (c)(2), the words ''In addition to the purposes provided for under subsection (a) of this section'' and ''with any person'' are omitted as surplus. The cross-reference to paragraph (1) is not changed. The cross-reference in 49 App.:1619(h), the source provision being restated in this subsection, is no longer correct, but is apparently still meant to apply to funds made available under 49 App.:1619(a).

In subsection (e), before clause (1), the text of 49 App.:1619(f) (2d sentence) is omitted as executed. In clause (1), The words ''vehicles or other'' and ''the performance of'' are omitted as surplus.

PUB. L. 103–429

This amends 49:5327(c)(1) to correct an erroneous cross-reference.

PUB. L. 104–287

This amends 49:5327(c) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The National Capital Transportation Act of 1969, referred to in subsecs. (a) and (d), is Pub. L. 91–143, Dec. 9, 1969, 83 Stat. 320, as amended, which amended section 24 of Title 12, Banks and Banking, and section 684 of former Title 40, Public Buildings, Property, and Works, and repealed sections 651, 652, 661 to 665, 671, 682, and 683 of former Title 40 and provisions set out as notes under section 651 of former Title 40. Section 14(b) of that Act is not classified to the Code. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2005—Subsec. (a)(13). Pub. L. 109–59, § 3026(a), added par. (13).

Subsec. (c). Pub. L. 109–59, § 3026(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) specified limitations on use of available amounts for certain purposes.

1998—Subsec. (c)(2). Pub. L. 105–178, § 3024(a), substituted ''enter into contracts'' for ''make contracts'' and inserted ''and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section'' before period at end of first sentence.

Subsec. (f). Pub. L. 105–178, § 3024(b), added subsec. (f).

1996—Subsec. (c)(1). Pub. L. 104–287 substituted ''to carry out a major project under section 5309'' for ''to carry out a major project under section 5307''.

1994—Subsec. (c)(1). Pub. L. 103–429 substituted ''section 5307, 5309, 5311, or 103(e)(4) or that Act'' for ''section 5307, 5309, 5311, or 103(e)(4) of that Act''.

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.

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.

FINANCING OF OVERSIGHT ACTIVITIES

Pub. L. 107–87, title III, § 319, Dec. 18, 2001, 115 Stat. 858, provided that: ''Beginning in fiscal year 2002 and thereafter, the Secretary may use up to 1 percent of the amounts made available to carry out 49 U.S.C. 5309 for oversight activities under 49 U.S.C. 5327.''

## § 5328. Project review

(a) SCHEDULE.—

(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis required by subsections (d) and (e) of section 5309 in the alternatives analysis and in preparing a draft environmental impact statement and shall approve the draft for circulation not later than 45 days after the applicant submits the draft to the Secretary.

(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—After the draft is circulated and not later than 30 days after the applicant selects a locally preferred alternative, the Secretary shall allow the project to advance to the preliminary engineering stage if the Secretary finds the project meets the requirements of subsection (d) or (e) of section 5309.

(3) RECORD OF DECISION.—The Secretary shall issue a record of decision and allow a project to advance to the final design stage not later than 120 days after the final environmental impact statement for the project is completed if the Secretary determines that the project meets the requirements of subsection (d) or (e) of section 5309.

(4) FUNDING AGREEMENTS.—The Secretary shall enter into a full funding grant agreement or project construction grant agreement, as appropriate, between the Government and the project sponsor if the Secretary determines that the project meets the requirements of subsection (d) or (e) of section 5309.

(b) ALLOWED DELAYS.—(1) Advancement of a project under the time requirements of subsection (a) of this section may be delayed only—

(A) for the time the applicant may request; or

(B) during the time the Secretary finds, after reasonable notice and an opportunity for comment, that the applicant, for reasons attributable only to the applicant, has not complied substantially with the provisions of this chapter applicable to the project.

(2) Not more than 10 days after imposing a delay under paragraph (1)(B) of this subsection, the Secretary shall give the applicant a written statement explaining the reasons for the delay and describing actions the applicant must take to end the delay.

(3) At least once every 6 months, the Secretary shall report to the Committee on Transportation and Infrastructure of the House of Rep-

resentatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on each situation in which the Secretary has not met a time requirement of subsection (a) of this section or delayed a time requirement under paragraph (1)(B) of this subsection. The report shall explain the reasons for the delay and include a plan for achieving timely completion of the Secretary's review.

(c) PROGRAM OF INTERRELATED PROJECTS.—(1) In this subsection, a program of interrelated projects includes the following:

(A) the New Jersey Urban Core Project (as defined in title III of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2087)).

(B) the San Francisco Bay Area Rail Extension Program, consisting of at least an extension of the San Francisco Bay Area Rapid Transit District to the San Francisco International Airport (Phase 1a to Colma and Phase 1b to San Francisco Airport), the Santa Clara County Transit District Tasman Corridor Project, a program element designated by a change to the Metropolitan Transportation Commission Resolution No. 1876, and a program element financed completely with non-Government amounts, including the BART Warm Springs Extension, Dublin Extension, and West Pittsburg Extension.

(C) the Los Angeles Metro Rail Minimum Operable Segment-3 Program, consisting of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

(i) one line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations.

(ii) one line running west from the Wilshire/Western station to the Pico/San Vicente station, with one intermediate station.

(iii) the East Side Extension, consisting of an initial line of approximately 3 miles, with at least 2 stations, beginning at Union Station and running generally east.

(D) the Baltimore-Washington Transportation Improvement Program, consisting of 3 extensions of the Baltimore Light Rail to Hunt Valley, Penn Station, and Baltimore-Washington Airport, MARC extensions to Frederick and Waldorf, Maryland, and an extension of the Washington Subway system to Largo, Maryland.

(E) the Tri-County Metropolitan Transportation District of Oregon Light Rail Program, consisting of the locally preferred alternative for the Westside Light Rail Project, including system related costs, contained in the Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101–516, 104 Stat. 2155), and defined in House Report 101–584, the Hillsboro extension to the Westside Light Rail Project contained in that Act, and the locally preferred alternative for the South/North Corridor Project.

(F) the Queens Local/Express Connector Program, consisting of the locally preferred alternative for the connection of the 63d Street tunnel extension to the Queens Boulevard lines, the bell-mouth part of the connector that will allow for future access by commuter rail trains and other subway lines to the 63d Street tunnel extension, planning elements for connecting the upper and lower levels to commuter and subway lines in Long Island City, and planning elements for providing a connector for commuter rail transportation to the East side of Manhattan and subway lines to the proposed Second Avenue subway.

(G) the Dallas Area Rapid Transit Authority light rail elements of the New System Plan, consisting of the locally preferred alternative for the South Oak Cliff corridor, the South Oak Cliff corridor extension-Camp Wisdom, the West Oak Cliff corridor-Westmoreland, the North Central corridor-Park Lane, the North Central corridor-Richardson, Plano, and Garland extensions, the Pleasant Grove corridor-Buckner, and the Carrollton corridors-Farmers Branch and Las Colinas terminal.

(H) other programs designated by law or the Secretary.

(2) Consistent with the time requirements of subsection (a) of this section or as otherwise provided by law, the Secretary shall make at least one full financing grant agreement for each program described in paragraph (1) of this subsection. The agreement shall include commitments to advance each of the applicant's program elements (in the program of interrelated projects) through the appropriate program review stages as provided in subsection (a) or as otherwise provided by law and to provide Government financing for each element. The agreement may be changed to include design and construction of a particular element.

(3) When reviewing a project in a program of interrelated projects, the Secretary shall consider the local financial commitment, transportation effectiveness, and other assessment factors of all program elements to the extent consideration expedites carrying out the project.

(4) Including a program element not financed by the Government in a program of interrelated projects does not impose Government requirements that otherwise would not apply to the element.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 828; Pub. L. 104–205, title III, § 336, Sept. 30, 1996, 110 Stat. 2974; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–178, title III, § 3009(h)(2), (3)(B), (C), June 9, 1998, 112 Stat. 356; Pub. L. 105–206, title IX, § 9009(h)(2), (3), July 22, 1998, 112 Stat. 856; Pub. L. 109–59, title III, § 3027, Aug. 10, 2005, 119 Stat. 1623.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5328(a) ..... | 49 App.:1602(a)(6). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(a)(6)–(8); added Jan. 6, 1983, Pub. L. 97–424, § 304(b), 96 Stat. 2150; restated Dec. 18, 1991, Pub. L. 102–240, § 3011(a), 105 Stat. 2095. |
| 5328(b) ..... | 49 App.:1602(a)(7). | |
| 5328(c)(1) .... | 49 App.:1602(a)(8)(C). | |
| 5328(c)(2) .... | 49 App.:1602(a)(8)(A) (1st–3d sentences). | |
| 5328(c)(3) .... | 49 App.:1602(a)(8)(B). | |
| 5328(c)(4) .... | 49 App.:1602(a)(8)(A) (last sentence). | |

In subsection (a)(1), the words ''the date on which'' are omitted as surplus.

In subsection (a)(2), the words ''the criteria set forth in'' are omitted as surplus.

In subsection (a)(4), the words ''negotiate and'' are omitted as surplus. The words ''under section 5309 of this title'' are added for clarity.

In subsection (b)(1)(A), the words ''solely at the applicant's discretion'' are omitted as surplus.

In subsection (c)(2), the words ''if appropriate'' are omitted as surplus.

REFERENCES IN TEXT

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (c)(1)(A), is Pub. L. 102–240, Dec. 18, 1991, 105 Stat. 1914, as amended. Title III of the Act is also known as the Federal Transit Act Amendments of 1991. Provisions defining the New Jersey Urban Core Project are contained in section 3031 of the Act, which is not classified to the Code. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of this title and Tables.

The Department of Transportation and Related Agencies Appropriations Act, 1991, referred to in subsec. (c)(1)(E), is Pub. L. 101–516, Nov. 5, 1990, 104 Stat. 2155, as amended. Provisions relating to the Westside Light Rail Program are contained in section 328 of the Act, which is not classified to the Code. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–59, § 3027(1), inserted heading and substituted ''The Secretary shall cooperate with an applicant undertaking an alternatives analysis required by subsections (d) and (e) of section 5309 in the alternatives analysis'' for ''When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant in alternatives analysis''.

Subsec. (a)(2). Pub. L. 109–59, § 3027(2), inserted heading and substituted ''meets the requirements of subsection (d) or (e) of section 5309'' for ''is consistent with section 5309(e)''.

Subsec. (a)(3). Pub. L. 109–59, § 3027(3), inserted heading, struck out ''of construction'' after ''stage'', and inserted ''if the Secretary determines that the project meets the requirements of subsection (d) or (e) of section 5309'' before period at end.

Subsec. (a)(4). Pub. L. 109–59, § 3027(4), added par. (4) and struck out former par. (4) which read as follows: ''The Secretary shall make a full funding grant agreement under section 5309 of this title for a project not later than 120 days after the project enters the final design stage of construction. The agreement shall provide for a United States Government share of the construction cost at least equal to the Government share estimated in the Secretary's most recent report required under 5309(*o*)(1) or an update of the report unless the applicant requests otherwise.''

1998—Subsec. (a)(2). Pub. L. 105–178, § 3009(h)(2), substituted ''5309(e)'' for ''5309(e)(1)–(6) of this title''.

Subsec. (a)(4). Pub. L. 105–178, § 3009(h)(3)(C), as added by Pub. L. 105–206, § 9009(h)(3), substituted ''5309(*o*)(1)'' for ''section 5309(m)(2) of this title''.

Pub. L. 105–178, § 3009(h)(3)(B), as amended by Pub. L. 105–206, § 9009(h)(2), substituted ''full funding'' for ''full financing''.

1996—Subsec. (b)(3). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

Subsec. (c)(1)(E). Pub. L. 104–205 struck out ''Westside'' after ''District of Oregon'' and ''and'' after ''House Report 101–584,'' and inserted before period at end '', and the locally preferred alternative for the South/North Corridor Project''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

## § 5329. Investigations of safety hazards and security risks

(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

(c) WITHHOLDING FINANCIAL ASSISTANCE.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 830; Pub. L. 109–59, title III, § 3028(a), Aug. 10, 2005, 119 Stat. 1624.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5329(a) ..... | 49 App.:1618(a). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 22(a); added Jan. 6, 1983, Pub. L. 97–424, § 318(b), 96 Stat. 2154; Dec. 18, 1991, Pub. L. 102–240, § 3026(1), 105 Stat. 2114. |
| 5329(b) ..... | 49 App.:1618(b). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 22(b); added Dec. 18, 1991, Pub. L. 102–240, § 3026(2), 105 Stat. 2114. |

In subsection (a), the words ''manner of'' are omitted as surplus. The word ''how'' is substituted for ''the means which might best be employed'' to eliminate unnecessary words. The words ''or eliminating'' and ''from the local public body'' are omitted as surplus. The words ''a plan is approved and carried out'' are substituted for ''he approves such plan and the local public body implements such plan'' to eliminate unnecessary words.

In subsection (b)(1) and (2), the words ''a description of'' are added for clarity.

AMENDMENTS

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to investigations of safety hazards and security risks for provisions relating to investigation of safety hazards.

## § 5330. State safety oversight

(a) APPLICATION.—This section shall only apply to—

(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

(2) States that are designing rail fixed guideway public transportation systems that will not be subject to regulation by the Federal Railroad Administration.

(b) GENERAL AUTHORITY.—The Secretary of Transportation may withhold not more than 5 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 of this title for a fiscal year beginning after September 30, 1994, if the State in the prior fiscal year has not met the requirements of subsection (c) of this section and the Secretary decides the State is not making an adequate effort to comply with subsection (c).

(c) STATE REQUIREMENTS.—A State meets the requirements of this section if the State—

(1) establishes and is carrying out a safety program plan for each fixed guideway public transportation system in the State that establishes at least safety requirements, lines of authority, levels of responsibility and accountability, and methods of documentation for the system; and

(2) designates a State authority as having responsibility—

(A) to require, review, approve, and monitor the carrying out of each plan;

(B) to investigate hazardous conditions and accidents on the systems; and

(C) to require corrective action to correct or eliminate those conditions.

(d) MULTISTATE INVOLVEMENT.—When more than one State is subject to this section in connection with a single public transportation authority, the affected States shall ensure uniform safety standards and enforcement or shall designate an entity (except the public transportation authority) to ensure uniform safety standards and enforcement and to meet the requirements of subsection (c) of this section.

(e) AVAILABILITY OF WITHHELD AMOUNTS.—(1) An amount withheld under subsection (b) of this section remains available for apportionment for use in the State until the end of the 2d fiscal year after the fiscal year for which the amount may be appropriated.

(2) If a State meets the requirements of subsection (c) of this section before the last day of the period for which an amount withheld under subsection (b) of this section remains available under paragraph (1) of this subsection, the Secretary, on the first day on which the State meets the requirements, shall apportion to the State the amount withheld that remains available for apportionment for use in the State. An amount apportioned under this paragraph remains available until the end of the 3d fiscal year after the fiscal year in which the amount is apportioned. An amount not obligated at the end of the 3-year period shall be apportioned for use in other States under section 5336 of this title.

(3) If a State does not meet the requirements of subsection (c) of this section at the end of the period for which an amount withheld under subsection (b) of this section remains available under paragraph (1) of this subsection, the amount shall be apportioned for use in other States under section 5336 of this title.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 831; Pub. L. 109–59, title III, §§ 3002(b)(4), 3029(a), Aug. 10, 2005, 119 Stat. 1545, 1625.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5330(a) ..... | 49 App.:1624(d). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 28; added Dec. 18, 1991, Pub. L. 102–240, § 3029, 105 Stat. 2116. |
| 5330(b) ..... | 49 App.:1624(a). | |
| 5330(c) ..... | 49 App.:1624(b)(1), (2). | |
| 5330(d) ..... | 49 App.:1624(b)(3). | |
| 5330(e) ..... | 49 App.:1624(c). | |
| 5330(f) ..... | 49 App.:1624(e). | |

In subsection (e)(1), the words ''under subsection (a) of this section from apportionment for use in any State in a fiscal year'' are omitted as surplus.

In subsection (e)(2) and (3), the words ''from apportionment'' and ''for apportionment for use in a State'' are omitted as surplus.

AMENDMENTS

2005—Pub. L. 109–59, § 3029(a)(1), substituted ''State safety oversight'' for ''Withholding amounts for noncompliance with safety requirements'' in section catchline.

Subsec. (a). Pub. L. 109–59, § 3029(a)(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''This section applies only to States that have rail fixed guideway mass transportation systems not subject to regulation by the Federal Railroad Administration.''

Subsec. (c)(1). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (d). Pub. L. 109–59, § 3029(a)(2), substituted ''shall ensure uniform safety standards and enforcement or shall designate'' for ''may designate''.

Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' in two places.

Subsec. (f). Pub. L. 109–59, § 3029(a)(3), struck out heading and text of subsec. (f). Text read as follows: ''Not later than December 18, 1992, the Secretary shall prescribe regulations stating the requirements for complying with subsection (c) of this section.''

## § 5331. Alcohol and controlled substances testing

(a) DEFINITIONS.—In this section—

(1) ''controlled substance'' means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) whose use the Secretary of Transportation decides has a risk to transportation safety.

(2) ''person'' includes any entity organized or existing under the laws of the United States, a State, territory, or possession of the United States, or a foreign country.

(3) ''public transportation'' means any form of public transportation, except a form the Secretary decides is covered adequately, for employee alcohol and controlled substances testing purposes, under section 20140 or 31306 of this title or section 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or the Coast Guard.

(b) TESTING PROGRAM FOR PUBLIC TRANSPORTATION EMPLOYEES.—(1)(A) In the interest of public transportation safety, the Secretary shall prescribe regulations that establish a program requiring public transportation operations that

receive financial assistance under section 5307, 5309, or 5311 of this title to conduct preemployment, reasonable suspicion, random, and post-accident testing of public transportation employees responsible for safety-sensitive functions (as decided by the Secretary) 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 such employees for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit such operations to conduct preemployment testing of such employees for the use of alcohol.

(B) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of public transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(2) In prescribing regulations under this subsection, the Secretary of Transportation—

(A) shall require that post-accident testing of such a public transportation employee be conducted when loss of human life occurs in an accident involving public transportation; and

(B) may require that post-accident testing of such a public transportation employee be conducted when bodily injury or significant property damage occurs in any other serious accident involving public transportation.

(c) DISQUALIFICATIONS FOR USE.—(1) When the Secretary of Transportation considers it appropriate, the Secretary shall require disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) of this section who is found—

(A) to have used or been impaired by alcohol when on duty; or

(B) to have used a controlled substance, whether or not on duty, except as allowed for medical purposes by law or regulation.

(2) This section does not supersede any penalty applicable to a public transportation employee under another law.

(d) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary of Transportation shall develop requirements that shall—

(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 section, 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 section;

(3) require that a laboratory involved in controlled substances testing under this section 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 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 section; 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.

(e) REHABILITATION.—The Secretary of Transportation shall prescribe regulations establishing requirements for rehabilitation programs that provide for the identification and opportunity for treatment of any public transportation employee referred to in subsection (b)(1) of this section who is found to have used alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which employees shall be required to participate in a program. This subsection does not prevent a public transportation operation from establishing a program under this section in cooperation with another public transportation operation.

(f) RELATIONSHIP TO OTHER LAWS, REGULATIONS, STANDARDS, AND ORDERS.—(1) 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 section. However, a regulation prescribed under this section does not preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(2) In prescribing regulations under this section, the Secretary of Transportation—

(A) shall establish only requirements that are consistent with international obligations of the United States; and

(B) shall consider applicable laws and regulations of foreign countries.

(g) INELIGIBILITY FOR ASSISTANCE.—A person is not eligible for financial assistance under section 5307, 5309, or 5311 of this title if the person is required, under regulations the Secretary of Transportation prescribes under this section, to establish a program of alcohol and controlled substances testing and does not establish the program.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 832; Pub. L. 103–429, § 6(13), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–59, title III, § 342(a), Nov. 28, 1995, 109 Stat. 608; Pub. L. 109–59, title III, §§ 3002(b)(3), (4), 3030, Aug. 10, 2005, 119 Stat. 1545, 1625.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5331(a) ..... | 49 App.:1618a(a). | Oct. 28, 1991, Pub. L. 102–143, § 6, 105 Stat. 962. |
| 5331(b) ..... | 49 App.:1618a(b). | |
| 5331(c) ..... | 49 App.:1618a(f). | |
| 5331(d) ..... | 49 App.:1618a(d). | |
| 5331(e) ..... | 49 App.:1618a(c). | |
| 5331(f) ..... | 49 App.:1618a(e). | |
| 5331(g) ..... | 49 App.:1618a(g). | |

In subsection (a), before clause (1), the text of 49 App.:1618a(a)(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 (3), the words ''controlled substances'' are substituted for ''drug'' for consistency in this section.

In subsection (b)(1)(B), the word ''also'' is omitted as surplus.

In subsection (b)(2)(B), the words ''may require'' are substituted for ''as determined by the Secretary'' for clarity and to eliminate unnecessary words.

In subsection (d), the word ''samples'' is omitted as surplus.

In subsection (d)(2), before subclause (A), the word ''subsequent'' is omitted as surplus.

In subsection (d)(3), the words ''of any individual'' are omitted as surplus.

In subsection (d)(4), the words ''by any individual'' are omitted as surplus.

In subsection (d)(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 subsection (d)(6), the word ''Secretary'' is substituted for ''Department'' for consistency in the revised title and with other titles of the United States Code.

In subsection (f)(1), the word ''prescribe'' is substituted for ''adopt'' for consistency in the revised title and with other titles of the 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 ''whether the provisions apply specifically to mass transportation employees, or to the general public'' are omitted as surplus.

In subsection (f)(3), the word ''prevent'' is substituted for ''restrict the discretion of'' to eliminate unnecessary words.

In subsection (g) the words ''in accordance with such regulations'' are omitted as surplus.

PUB. L. 103–429

This amends 49:5331(a)(3) to correct an erroneous cross-reference.

AMENDMENTS

2005—Subsec. (a)(3). Pub. L. 109–59, § 3030(a), substituted ''section 20140 or 31306 of this title or section 2303a, 7101(i), or 7302(e) of title 46'' for ''section 20140 or 31306 of this title'' and inserted at end ''The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or the Coast Guard.''.

Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' in two places.

Subsec. (b). Pub. L. 109–59, § 3002(b)(3), substituted ''Public'' for ''Mass'' in heading.

Subsec. (b)(1)(A). Pub. L. 109–59, § 3030(b), struck out ''or section 103(e)(4) of title 23'' after ''5311 of this title''.

Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' wherever appearing.

Subsecs. (b)(1)(B), (2), (c)(2), (e). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' wherever appearing.

Subsec. (f)(3). Pub. L. 109–59, § 3030(c), struck out par. (3) which read as follows: ''This section does not prevent the Secretary of Transportation 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 mass transportation employees.''

Subsec. (g). Pub. L. 109–59, § 3030(b), struck out ''or section 103(e)(4) of title 23'' after ''5311 of this title''.

1995—Subsec. (b)(1)(A). Pub. L. 104–59 added subpar. (A) and struck out former subpar. (A) which read as follows: ''In the interest of mass transportation safety, the Secretary of Transportation shall prescribe regulations not later than October 28, 1992, that establish a program requiring mass transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4) of title 23 to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation.''

1994—Subsec. (a)(3). Pub. L. 103–429 substituted ''section 20140 or 31306'' for ''subchapter III of chapter 201 or section 31306''.

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.

## § 5332. Nondiscrimination

(a) DEFINITION.—In this section, ''person'' includes a governmental authority, political subdivision, authority, legal representative, trust, unincorporated organization, trustee, trustee in bankruptcy, and receiver.

(b) PROHIBITIONS.—A person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, pro-

gram, or activity receiving financial assistance under this chapter because of race, color, creed, national origin, sex, or age.

(c) COMPLIANCE.—(1) The Secretary of Transportation shall take affirmative action to ensure compliance with subsection (b) of this section.

(2) When the Secretary decides that a person receiving financial assistance under this chapter is not complying with subsection (b) of this section, a civil rights law of the United States, or a regulation or order under that law, the Secretary shall notify the person of the decision and require action be taken to ensure compliance with subsection (b).

(d) AUTHORITY OF SECRETARY FOR NONCOMPLIANCE.—If a person does not comply with subsection (b) of this section within a reasonable time after receiving notice, the Secretary shall—

(1) direct that no further financial assistance of the United States Government under this chapter be provided to the person;

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought;

(3) proceed under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); and

(4) take any other action provided by law.

(e) CIVIL ACTIONS BY ATTORNEY GENERAL.—The Attorney General may bring a civil action for appropriate relief when—

(1) a matter is referred to the Attorney General under subsection (d)(2) of this section; or

(2) the Attorney General believes a person is engaged in a pattern or practice in violation of this section.

(f) APPLICATION AND RELATIONSHIP TO OTHER LAWS.—This section applies to an employment or business opportunity and is in addition to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 834.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5332(a) ..... | 49 App.:1615(a)(5). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 19; added Nov. 6, 1978, Pub. L. 95–599, § 314, 92 Stat. 2750. |
| 5332(b) ..... | 49 App.:1615(a)(1) (1st sentence). | |
| 5332(c) ..... | 49 App.:1615(a)(2), (3)(A). | |
| 5332(d) ..... | 49 App.:1615(a)(3)(B). | |
| 5332(e) ..... | 49 App.:1615(a)(4). | |
| 5332(f) ..... | 49 App.:1615(a)(1) (last sentence). | |

In subsection (a), the words ''the term'' and ''one or more'' are omitted as surplus. The words ''partnerships, associations, corporations'' and ''mutual companies, joint-stock companies'' are omitted because of 1:1.

In subsection (b), the word ''receiving'' is substituted for ''funded in whole or in part through'' to eliminate unnecessary words.

In subsection (c)(2), the words ''directly or indirectly'', ''issued'', and ''necessary'' are omitted as surplus.

In subsection (d), before clause (1), the words ''does not'' are substituted for ''fails or refuses to'' to eliminate unnecessary words. The words ''period of'' and ''pursuant to paragraph (a) of this subsection'' are omitted as surplus. In clause (2), the word ''appropriate'' is omitted as surplus. In clause (3), the words ''proceed under'' are substituted for ''exercise the powers and functions provided by'' to eliminate unnecessary words.

In subsection (e), before clause (1), the words ''in any appropriate district court of the United States'' and ''including injunctive relief'' are omitted as surplus.

In subsection (f), the words ''considered to be'' and ''and not in lieu of'' are omitted as surplus.

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsecs. (d)(3) and (f), 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.

## § 5333. Labor standards

(a) PREVAILING WAGES REQUIREMENT.—The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 3145 of title 40.

(b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—(1) As a condition of financial assistance under sections 5307–5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307–5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired public transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

(4) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase likekind equipment or facilities, and grant amend-

ments which do not materially revise or amend existing assistance agreements, shall be certified without referral.

(5) When the Secretary is called upon to issue fair and equitable determinations involving assurances of employment when one private transit bus service contractor replaces another through competitive bidding, such decisions shall be based on the principles set forth in the Department of Labor's decision of September 21, 1994, as clarified by the supplemental ruling of November 7, 1994, with respect to grant NV–90–X021. This paragraph shall not serve as a basis for objections under section 215.3(d) of title 29, Code of Federal Regulations.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 835; Pub. L. 104–88, title III, § 308(e), Dec. 29, 1995, 109 Stat. 947; Pub. L. 105–178, title III, § 3029(b)(9), June 9, 1998, 112 Stat. 372; Pub. L. 107–217, § 3(n)(3), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 109–59, title III, §§ 3002(b)(4), 3031, Aug. 10, 2005, 119 Stat. 1545, 1625.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5333(a) ..... | 49 App.:1609(a), (b). | July 9, 1964, Pub. L. 88–365, § 13, 78 Stat. 307; Sept. 8, 1966, Pub. L. 89–562, § 2(a)(1), (b)(2), 80 Stat. 715, 716; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25. |
| 5333(b) ..... | 49 App.:1609(c). | |

In subsection (a), the words ''take such action as may be necessary to'', ''the performance of'', ''the assistance of'', and ''at rates'' are omitted as surplus. The word ''same'' is added for clarity. The words ''duties and powers'' are substituted for ''authority and functions'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the reference to sections 5307, 5308, 5310, and 5311 of the revised title is added for clarity because of 49 App.:1607a(e)(1), 1607a–2(a), 1612(b), and 1614(f), restated as sections 5307(n)(2), 5308(b)(1), 5310(a), and 5311(i) of the revised title. The reference to section 5312 is added for clarity because it is intended that 49 App.:1609(c) cover research, development, training, and demonstration projects. The words ''terms and conditions of the protective'' are omitted as surplus.

In subsection (b)(2), before clause (A), the words ''without being limited to'' are omitted as being included in ''include''. The words ''such provisions as may be necessary for'' are omitted as surplus. In clause (C), the word ''individual'' is omitted as surplus.

In subsection (b)(3), the words ''section 11347 of this title'' are substituted for and coextensive with ''section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended'' in section 13(c) of the Urban Mass Transportation Act of 1964 (Public Law 88–365, 78 Stat. 307) on authority of section 3(b) of the Act of October 17, 1978 (Public Law 95–473, 92 Stat. 1466).

REFERENCES IN TEXT

Reorganization Plan No. 14 of 1950, referred to in subsec. (a), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109–59, § 3031(1), substituted ''5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)'' for ''5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)'' in two places.

Subsec. (b)(2)(D). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (b)(4), (5). Pub. L. 109–59, § 3031(2), added pars. (4) and (5).

2002—Subsec. (a). 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)'' and ''section 3145 of title 40'' for ''section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)''.

1998—Subsec. (b)(1). Pub. L. 105–178 substituted ''5338(b)'' for ''5338(j)(5)'' in two places.

1995—Subsec. (b)(3). Pub. L. 104–88 substituted ''11326'' for ''11347''.

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.

## § 5334. Administrative provisions

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) prescribe terms for a project under sections 5307 and 5309–5311 of this title (except terms the Secretary of Labor prescribes under section 5333(b) of this title);

(2) sue and be sued;

(3) foreclose on property or bring a civil action to protect or enforce a right conferred on the Secretary of Transportation by law or agreement;

(4) buy property related to a loan under this chapter;

(5) agree to pay an annual amount in place of a State or local tax on real property acquired or owned under this chapter;

(6) sell, exchange, or lease property, a security, or an obligation;

(7) obtain loss insurance for property and assets the Secretary of Transportation holds;

(8) consent to a modification in an agreement under this chapter;

(9) include in an agreement or instrument under this chapter a covenant or term the Secretary of Transportation considers necessary to carry out this chapter;

(10) collect fees to cover the costs of training or conferences, including costs of promotional materials, sponsored by the Federal Transit Administration to promote public transportation and credit amounts collected to the appropriation concerned; and

(11) issue regulations as necessary to carry out the purposes of this chapter.

(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

(1) IN GENERAL.—Except for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter, nor may the Secretary regulate the rates, fares, tolls, rentals, or other charges prescribed by any provider of public transportation.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.

(c) PROCEDURES FOR PRESCRIBING REGULATIONS.—(1) The Secretary of Transportation shall prepare an agenda listing all areas in which the Secretary intends to propose regula-

tions governing activities under this chapter within the following 12 months. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary's semiannual regulatory agenda that lists regulatory activities of the Federal Transit Administration. The Secretary shall submit the agenda to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate on the day the agenda is published.

(2) Except for emergency regulations, the Secretary of Transportation shall give interested parties at least 60 days to participate in a regulatory proceeding under this chapter by submitting written information, views, or arguments, with or without an oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary because of the routine nature or insignificant impact of the regulation or that an emergency regulation should be issued. The Secretary may extend the 60-day period if the Secretary decides the period is insufficient to allow diligent individuals to prepare comments or that other circumstances justify an extension.

(3) An emergency regulation ends 120 days after it is issued.

(4) The Secretary of Transportation shall comply with this section (except subsection (i)) and sections 5318(e), 5323(a)(2), 5325(a), 5325(b), and 5325(f) when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.

(d) BUDGET PROGRAM AND SET OF ACCOUNTS.—The Secretary of Transportation shall—

(1) submit each year a budget program as provided in section 9103 of title 31; and

(2) maintain a set of accounts for audit under chapter 35 of title 31.

(e) DEPOSITORY AND AVAILABILITY OF AMOUNTS.—The Secretary of Transportation shall deposit amounts made available to the Secretary under this chapter in a checking account in the Treasury. Receipts, assets, and amounts obtained or held by the Secretary to carry out this chapter are available for administrative expenses to carry out this chapter.

(f) BINDING EFFECT OF FINANCIAL TRANSACTION.—A financial transaction of the Secretary of Transportation under this chapter and a related voucher are binding on all officers and employees of the United States Government.

(g) DEALING WITH ACQUIRED PROPERTY.—Notwithstanding another law related to the Government acquiring, using, or disposing of real property, the Secretary of Transportation may deal with property acquired under subsection (a)(3) or (4) of this section in any way. However, this subsection does not—

(1) deprive a State or political subdivision of a State of jurisdiction of the property; or

(2) impair the civil rights, under the laws of a State or political subdivision of a State, of an inhabitant of the property.

(h) TRANSFER OF ASSETS NO LONGER NEEDED.—(1) If a recipient of assistance under this chapter decides an asset acquired under this chapter at least in part with that assistance is no longer needed for the purpose for which it was acquired, the Secretary of Transportation may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government. The Secretary may authorize a transfer for a public purpose other than public transportation only if the Secretary decides—

(A) the asset will remain in public use for at least 5 years after the date the asset is transferred;

(B) there is no purpose eligible for assistance under this chapter for which the asset should be used;

(C) the overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(D) through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land.

(2) A decision under paragraph (1) of this section must be in writing and include the reason for the decision.

(3) This subsection is in addition to another law related to using and disposing of a facility or equipment under an assistance agreement.

(4) PROCEEDS FROM THE SALE OF TRANSIT ASSETS.—

(A) IN GENERAL.—When real property, equipment, or supplies acquired with assistance under this chapter are no longer needed for public transportation purposes as determined under the applicable assistance agreement, the Secretary may authorize the sale, transfer, or lease of the assets under conditions determined by the Secretary and subject to the requirements of this subsection.

(B) USE.—The net income from asset sales, uses, or leases (including lease renewals) under this subsection shall be used by the recipient to reduce the gross project cost of other capital projects carried out under this chapter.

(C) RELATIONSHIP TO OTHER AUTHORITY.—The authority of the Secretary under this subsection is in addition to existing authorities controlling allocation or use of recipient income otherwise permissible in law or regulation in effect prior to the date of enactment of this paragraph.

(i) TRANSFER OF AMOUNTS AND NON-GOVERNMENT SHARE.—(1) Amounts made available for a public transportation project under title 23 shall be transferred to and administered by the Secretary of Transportation under this chapter. Amounts made available for a highway project under this chapter shall be transferred to and administered by the Secretary under title 23.

(2) The provisions of title 23 related to the non-Government share apply to amounts under title 23 used for public transportation projects. The provisions of this chapter related to the non-Government share apply to amounts under this chapter used for highway projects.

(j) RELATIONSHIP TO OTHER LAWS.—(1) Section 9107(a) of title 31 applies to the Secretary of Transportation under this chapter.

(2) Section 6101(b) to (d) of title 41 applies to a contract for more than $1,000 for services or supplies related to property acquired under this chapter.

(k) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives.

(*l*) AGENCY STATEMENTS.—

(1) IN GENERAL.—The Administrator of the Federal Transit Administration shall follow applicable rulemaking procedures under section 553 of title 5 before the Federal Transit Administration issues a statement that imposes a binding obligation on recipients of Federal assistance under this chapter.

(2) BINDING OBLIGATION DEFINED.—In this subsection, the term ''binding obligation'' means a substantive policy statement, rule, or guidance document issued by the Federal Transit Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 836; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 104–316, title I, § 127(a), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105–178, title III, §§ 3023(c), 3025(a), (b)(1), (c), June 9, 1998, 112 Stat. 364, 365; Pub. L. 109–59, title III, §§ 3002(b)(4), 3032, Aug. 10, 2005, 119 Stat. 1545, 1626; Pub. L. 111–350, § 5(*o*)(3), Jan. 4, 2011, 124 Stat. 3853.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5334(a) ..... | 49 App.:1608(a) (1st sentence related to 12:1749a(c)(1)–(3) (1st sentence), (4)–(8), (10)). | July 9, 1964, Pub. L. 88–365, § 12(a), 78 Stat. 306; Sept. 8, 1966, Pub. L. 89–562, § 2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25. |
| 5334(b) ..... | 49 App.:1608(i)(1), (2). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(i)(1), (2); added Apr. 2, 1987, Pub. L. 100–17, § 318(a), 101 Stat. 233. |
| | 49 App.:1608(i)(3). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(i)(3); added Dec. 18, 1991, Pub. L. 102–240, § 3017, 105 Stat. 2108. |
| 5334(c) ..... | 49 App.:1608(a) (1st sentence related to 12:1749a(a) (less proviso)). | |
| 5334(d) ..... | 49 App.:1608(a) (1st sentence related to 12:1749a(b), last sentence). | |
| 5334(e) ..... | 49 App.:1608(a) (1st sentence related to 12:1749a(a) (proviso)). | |
| 5334(f) ..... | 49 App.:1608(a) (1st sentence related to 12:1749a(c)(3) (last sentence)). | |
| 5334(g) ..... | 49 App.:1608(k). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(k); added Dec. 18, 1991, Pub. L. 102–240, § 3018, 105 Stat. 2108. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5334(h) ..... | 49 App.:1607(k). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 8(k); added Nov. 6, 1978, Pub. L. 95–599, § 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, § 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, § 3012, 105 Stat. 2104; Oct. 6, 1992, Pub. L. 102–388, § 502(a), 106 Stat. 1566. |
| 5334(i) ..... | 49 App.:1608 (note) (related to authority and functions reserved to Secretary of Housing and Urban Development). | Reorg. Plan No. 2 of 1968, eff. June 30, 1968, § 1(a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development), 82 Stat. 1369. |
| 5334(j)(1) .... | 49 App.:1608(a) (1st sentence related to 12:1749a(e)). | |
| 5334(j)(2) .... | 49 App.:1608(a) (1st sentence related to 12:1749a(d)). | |

In subsections (c)–(f), and (j), the relevant substantive provisions of 12:1749a are substituted for ''shall . . . have the functions, powers, and duties set forth in section 1749a of title 12, except subsections (c)(2) and (f) of such section'' for clarity. The reference to subsection (c)(2) is omitted as obsolete because section 201(d)(1) of the Housing and Community Development Technical Amendments Act of 1984 (Public Law 98–479, 98 Stat. 2228) repealed 12:1749a(c)(2). The words ''(in addition to any authority otherwise vested in him)'' are omitted as surplus.

In subsection (a), the text of 49 App.:1608(a) (1st sentence related to 12:1749a(c)(8)) is omitted as obsolete. Before clause (1), the words ''carrying out this chapter'' are substituted for ''the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter'' to eliminate unnecessary words. In clause (1), the words ''(except terms the Secretary of Labor prescribes under section 5333(b) of this title)'' are added for clarity because 49 App.:1608(a) only applies to the Secretary of Transportation and does not supersede the responsibility of the Secretary of Labor. In clause (3), the word ''civil'' is added for clarity. The words ''contract, or other'' are omitted as surplus. In clause (4), the words ''bid for and . . . at any foreclosure or any other sale'' are omitted as surplus. In clause (6), the words ''at public or private sale'', ''real or personal'', and ''upon such terms as he may fix'' are omitted as surplus. Clause (8) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(c)(7)) to eliminate unnecessary words. In clause (9), the word ''provisions'' is omitted as surplus. The words ''carry out this chapter'' are substituted for ''assure that the purposes of this subchapter will be achieved'' to eliminate unnecessary words.

In subsection (b), the words ''regulatory'' and ''regulatory proceeding'' are substituted for ''rulemaking'' for consistency in the revised title and because ''rule'' and ''regulation'' are synonymous.

In subsection (b)(1), the words ''Federal Transit Administration'' are substituted for ''Urban Mass Transportation Administration'' because of section 3004(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2088). The words ''also'' and ''required by the first sentence of this paragraph'' are omitted as surplus.

In subsection (c), before clause (1), the words ''In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter . . . notwithstanding the provisions of any other law'' are omitted as surplus. In clause (1), the words ''prepare . . . and'' and ''for wholly owned Government corporations'' are omitted as surplus.

Subsection (d) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(b) and last sentence) to eliminate unnecessary words.

In subsection (e), the words ''such . . . as the making of loans'' are omitted as surplus. The words ''under this chapter'' are added for clarity. The word ''related'' is substituted for ''in connection with such financial transactions'' to eliminate unnecessary words. The words ''approved by the Secretary'' are omitted as surplus. The word ''binding'' is substituted for ''final and conclusive'' to eliminate unnecessary words. The words ''and employees'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (f), before clause (1), the words ''in any way'' are substituted for ''complete, administer, remodel and convert, dispose of, lease and otherwise'' to eliminate unnecessary words. In clause (1), the words ''civil or criminal'' are omitted as surplus. In clause (2), the words ''political subdivision of a State'' are substituted for ''local'' for consistency.

In subsection (g)(1), before clause (A), the words ''facilities and equipment and other'', ''(including land)'', and ''first'' are omitted as surplus.

In subsection (g)(3), the words ''and not in lieu of'' are omitted as surplus.

Subsection (i) is substituted for section 1(a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development) of Reorganization Plan No. 2 of 1968 to eliminate unnecessary words. The reference to 49 App.:1602(c)(1) is translated as a reference to 49 App.:1602(e)(1) because section 2(1) of the Urban Mass Transportation Assistance Act of 1970 (Public Law 91–453, 84 Stat. 962) redesignated subsection (c) as subsection (e). The references to 49 App.:1603(a) (1st sentence), 1604, and 1607c(b) and former 49 App.:1607a are omitted as obsolete because of section 103(a) of the National Mass Transportation Act of 1974 (Public Law 93–503, 88 Stat. 1567) and sections 303(b), 305(a), and 307 of the Federal Public Transportation Act of 1978 (Public Law 95–599, 92 Stat. 2737, 2743, 2747). Reference to 49 App.:1607c(c) is omitted because it was enacted after the Reorganization Plan and was not intended to be within the scope of the Plan.

Subsection (j)(1) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(e)) to eliminate unnecessary words.

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (h)(4)(C), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

AMENDMENTS

2011—Subsec. (j)(2). Pub. L. 111–350 substituted ''Section 6101(b) to (d) of title 41'' for ''Section 3709 of the Revised Statutes (41 U.S.C. 5)''.

2005—Subsec. (a)(10). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (a)(11). Pub. L. 109–59, § 3032(1), added par. (11).

Subsec. (b). Pub. L. 109–59, § 3032(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 109–59, § 3032(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(4). Pub. L. 109–59, § 3032(5), added par. (4) and struck out former par. (4) which read as follows: ''The Secretary of Transportation shall comply with this section (except subsections (h) and (i)) and sections 5323(a)(2), 5323(c), 5323(e), 5324(c), 5325(a), 5325(b), 5326(c), and 5326(d) when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.''

Subsecs. (d) to (f). Pub. L. 109–59, § 3032(3), redesignated subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–59, § 3032(3), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(1), (4)(A). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (h). Pub. L. 109–59, § 3032(3), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation'' in pars. (1) and (2).

Subsec. (i). Pub. L. 109–59, § 3032(2), (3), redesignated subsec. (h) as (i) and struck out heading and text of former subsec. (i). Text read as follows: ''The Secretary of Housing and Urban Development shall—

''(1) carry out section 5312(a) and (b)(1) of this title related to—

''(A) urban transportation systems and planned development of urban areas; and

''(B) the role of transportation planning in overall urban planning; and

''(2) advise and assist the Secretary of Transportation in making findings under section 5323(a)(1)(A) of this title.''

Subsecs. (k), (*l*). Pub. L. 109–59, § 3032(6), added subsecs. (k) and (*l*).

1998—Pub. L. 105–178, § 3025(b)(1), inserted ''provisions'' after ''Administrative'' in section catchline.

Subsec. (a)(10). Pub. L. 105–178, § 3025(a), added par. (10).

Subsec. (b)(4). Pub. L. 105–178, § 3023(c), substituted ''5323(a)(2), 5323(c), 5323(e), 5324(c), 5325(a), 5325(b), 5326(c), and 5326(d)'' for ''5323(a)(2), (c) and (e), 5324(c), and 5325 of this title''.

Subsec. (g)(4). Pub. L. 105–178, § 3025(c), added par. (4).

1996—Subsec. (b)(1). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

Subsec. (c)(2). Pub. L. 104–316 substituted ''for'' for ''the Comptroller General shall''.

## § 5335. National transit database

(a) NATIONAL TRANSIT DATABASE.—To help meet the needs of individual public transportation systems, the United States Government, State and local governments, and the public for information on which to base public transportation service planning, the Secretary of Transportation shall maintain a reporting system, using uniform categories to accumulate public transportation financial and operating information and using a uniform system of accounts. The reporting and uniform systems shall contain appropriate information to help any level of government make a public sector investment decision. The Secretary may request and receive appropriate information from any source.

(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311 only if the applicant, and any person that will receive benefits directly from the grant, are subject to the reporting and uniform systems.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 838; Pub. L. 104–287, § 5(9), (18), Oct. 11, 1996, 110 Stat. 3389, 3390; Pub. L. 104–316, title I, § 127(b), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105–178, title III, § 3026, June 9, 1998, 112 Stat. 365; Pub. L. 109–59, title III, §§ 3002(b)(4), 3033(a), Aug. 10, 2005, 119 Stat. 1545, 1627.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5335(a) ..... | 49 App.:1608(j). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(j); added Apr. 2, 1987, Pub. L. 100–17, § 319, 101 Stat. 234. |

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

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | 49 App.:1611(a). | July 9, 1964, Pub. L. 88–365, §15(a), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, §§2(a)(1), 4, 80 Stat. 715, 717; Oct. 15, 1970, Pub. L. 91–453, §7, 84 Stat. 967; restated Nov. 26, 1974, Pub. L. 93–503, §111, 88 Stat. 1573. |
| | 49 App.:1611(b). | July 9, 1964, Pub. L. 88–365, §15(b), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, §§2(a)(1), 4, 80 Stat. 715, 717; Oct. 15, 1970, Pub. L. 91–453, §7, 84 Stat. 967; restated Nov. 26, 1974, Pub. L. 93–503, §111, 88 Stat. 1573; Jan. 6, 1983, Pub. L. 97–424, §304(c), 96 Stat. 2150. |
| 5335(b) ..... | 49 App.:1603(b)(1). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §4(b)(1); added Nov. 6, 1978, Pub. L. 95–599, §303(e), 92 Stat. 2738; restated Apr. 2, 1987, Pub. L. 100–17, §307, 101 Stat. 226; Dec. 18, 1991, Pub. L. 102–240, §3006(h) (1), 105 Stat. 2090. |
| 5335(c) ..... | 49 App.:1623(a). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §27; added Dec. 18, 1991, Pub. L. 102–240, §3028, 105 Stat. 2115. |
| 5335(d) ..... | 49 App.:1623(b). | |

In subsection (a), the text of 49 App.:1608(j) is omitted as superseded by 31:ch. 75.

In subsection (a)(1), the words ''by January 10, 1977'' are omitted as executed. The word ''maintain'' is substituted for ''develop, test, and prescribe'' for clarity. The text of 49 App.:1611(a) (3d and 4th sentences) is omitted as executed. The words ''or data as he deems'' and ''public or private'' are omitted as surplus.

In subsection (a)(2), the words ''After July 1, 1978'' are omitted as executed. The reference to 49 App.:1604 is omitted as obsolete. The words ''for such grant'', ''or organization'', ''each . . . both'', and ''prescribed under subsection (a) of this section'' are omitted as surplus.

In subsection (b)(1), the words ''commitments, and reservations'' are omitted as surplus.

In subsection (b)(2) and (3), the words ''uncommitted, and unreserved'' are omitted as surplus.

In subsection (b)(3) and (5), the words ''last day'' are substituted for ''close'' for consistency.

In subsection (b)(4), the words ''a listing of'' are omitted as surplus.

In subsection (b)(5), the words ''a status report on all'' are omitted as surplus.

In subsection (b)(6), the words ''a status report on'', ''a letter of credit or other'', and ''already'' are omitted as surplus.

In subsection (d), before clause (1), the words ''the transferability provisions of'' are omitted as surplus.

PUB. L. 104–287, §5(18)

This amends 49:5335(d)(2)(B) to amend an erroneous cross-reference.

AMENDMENTS

2005—Pub. L. 109–59, §3033(a), substituted ''National transit database'' for ''Reports and audits'' in section catchline, redesignated pars. (1) and (2) of subsec. (a) as subsecs. (a) and (b), respectively, inserted subsec. (b) heading, substituted ''The Secretary may award a grant under section 5307 or 5311'' for ''The Secretary may make a grant under section 5307 of this title'' in subsec. (b), and struck out former subsec. (b) which related to submission of a report in January- 1993, on carrying out former section 5307(b)(5) of this title.

Subsec. (a)(1). Pub. L. 109–59, §3002(b)(4), substituted ''public transportation'' for ''mass transportation'' wherever appearing.

1998—Subsec. (a). Pub. L. 105–178, §3026(a)(1), substituted ''National Transit Database'' for ''Reporting System and Uniform System of Accounts and Records'' in heading.

Subsec. (a)(1). Pub. L. 105–178, §3026(a)(2), substituted ''using uniform categories'' for ''by uniform categories,'' and ''and using a uniform system of accounts'' for ''and a uniform system of accounts and records''.

Subsecs. (b) to (d). Pub. L. 105–178, §3026(b), redesignated subsec. (d) as (b) and struck out former subsecs. (b) and (c) which related to quarterly reports and biennial needs report, respectively.

1996—Subsec. (b). Pub. L. 104–287, §5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation'' in introductory provisions.

Subsec. (c). Pub. L. 104–316 struck out ''and in January of every 2d year after 1993'' after ''In January 1993'' in introductory provisions.

Pub. L. 104–287, §5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation'' in introductory provisions.

Subsec. (d). Pub. L. 104–316 struck out ''and in January of every 2d year after 1993'' after ''In January 1993'' in introductory provisions.

Pub. L. 104–287, §5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation'' in introductory provisions.

Subsec. (d)(2)(B). Pub. L. 104–287, §5(18), substituted ''Americans with Disabilities Act'' for ''Americans With Disabilities Act''.

## § 5336. Apportionment of appropriations for formula grants

(a) BASED ON URBANIZED AREA POPULATION.—Of the amount apportioned under subsection (i)(2) to carry out section 5307—

(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the latest United States Government census; and

(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile; and

(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section, except that the amount apportioned to the Anchorage urbanized area under subsection (b) shall be available to the Alaska Railroad for any costs related to its passenger operations.

(b) BASED ON FIXED GUIDEWAY REVENUE VEHICLE-MILES, ROUTE-MILES, AND PASSENGER-MILES.—(1) In this subsection, ''fixed guideway revenue vehicle-miles'' and ''fixed guideway route-miles'' include ferry boat operations directly or under contract by the designated recipient and, beginning in fiscal year 2006, 60 percent of the directional route miles attributable to the Alaska Railroad passenger operations.

(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway revenue vehicle-miles attributable to the area, as established by the Secretary of Transportation, divided by the total number of all fixed guideway revenue vehicle-miles attributable to all areas; and

(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway route-miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway route-miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) the number of fixed guideway vehicle passenger-miles traveled multiplied by the number of fixed guideway vehicle passenger-miles traveled for each dollar of operating cost in an area; divided by

(ii) the total number of fixed guideway vehicle passenger-miles traveled multiplied by the total number of fixed guideway vehicle passenger-miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(C) Under subparagraph (A) of this paragraph, fixed guideway revenue vehicle- or route-miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

(D) A recipient's apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary of Transportation that energy or operating efficiencies would be achieved, reduces revenue vehicle-miles but provides the same frequency of revenue service to the same number of riders.

(c) BASED ON BUS REVENUE VEHICLE-MILES AND PASSENGER-MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(A) the number of bus passenger-miles traveled multiplied by the number of bus passenger-miles traveled for each dollar of operating cost in an area; divided by

(B) the total number of bus passenger-miles traveled multiplied by the total number of bus passenger-miles traveled for each dollar of operating cost in all areas.

(d) DATE OF APPORTIONMENT.—The Secretary of Transportation shall—

(1) apportion amounts appropriated under subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338 of this title to carry out section 5307 of

this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

(e) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The chief executive officer of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient as defined in section 5307(a) of this title.

(f) TRANSFERS OF APPORTIONMENTS.—(1) The chief executive officer of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c) of this title or amounts apportioned to urbanized areas under this subsection. The chief executive officer may make a transfer only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was apportioned under this section.

(2) The chief executive officer of a State may transfer any part of the State's apportionment under section 5311(c) of this title to supplement amounts apportioned to the State under subsection (a)(1) of this section.

(3) The chief executive officer of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the chief executive officer of a State. The chief executive officer shall distribute the transferred amounts to urbanized areas under this section.

(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 3 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(h) APPLICATION OF OTHER SECTIONS.—Sections 5302, 5318, 5323(a)(1), (d), and (f), 5332, and 5333 of this title apply to this section and to a grant made with funds apportioned under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made with funds apportioned under this section.

(i) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338—

(1) one percent shall be apportioned, in fiscal year 2006 and each fiscal year thereafter, to certain urbanized areas with populations of less than 200,000 in accordance with subsection (j); and

(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

(j) SMALL TRANSIT INTENSIVE CITIES FORMULA.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) ELIGIBLE AREA.—The term ''eligible area'' means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

(B) PERFORMANCE CATEGORY.—The term ''performance category'' means each of the following:

(i) Passenger miles traveled per vehicle revenue mile.

(ii) Passenger miles traveled per vehicle revenue hour.

(iii) Vehicle revenue miles per capita.

(iv) Vehicle revenue hours per capita.

(v) Passenger miles traveled per capita.

(vi) Passengers per capita.

(2) APPORTIONMENT.—

(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (i)(1) shall be apportioned among eligible areas in the ratio that—

(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.

(k) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

(2) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

(ii) the optimal number and size of any incentive programs;

(iii) what types of systems should compete for various incentives;

(iv) how incentives should be distributed; and

(v) the likely effects of the incentive funding system.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 840; Pub. L. 104–287, § 5(19), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, §§ 3027(a), (b), 3029(b)(10), (11), June 9, 1998, 112 Stat. 366, 373; Pub. L. 109–59, title III, §§ 3002(b)(4), 3034, Aug. 10, 2005, 119 Stat. 1545, 1627; Pub. L. 110–244, title II, § 201(*l*), June 6, 2008, 122 Stat. 1611.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5336(a)(1) .... | 49 App.:1607a(a)(1). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(a); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2141; Apr. 2, 1987, Pub. L. 100–17, § 327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, § 3013(a), 105 Stat. 2106. |
| | 49 App.:1607a(d). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(b)(1)–(3), (c)–(e)(1), (m)(2); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2141, 2147; Apr. 2, 1987, Pub. L. 100–17, § 327(b), 101 Stat. 238. |
| 5336(a)(2) .... | 49 App.:1607a(a)(2). | |
| 5336(b)(1) .... | 49 App.:1607a(b)(2) (last sentence). | |
| 5336(b)(2)(A) | 49 App.:1607a(b)(1), (2) (1st sentence). | |
| 5336(b)(2)(B) | 49 App.:1607a(b)(3) (1st sentence). | |
| 5336(b)(2)(C) | 49 App.:1607a(b)(2) (2d sentence), (3) (last sentence). | |
| 5336(b)(2)(D) | 49 App.:1607a(b)(2) (3d sentence). | |
| 5336(b)(2)(E) | 49 App.:1607a(b)(4). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(b)(4); added Dec. 18, 1991, Pub. L. 102–240, § 3013(b), 105 Stat. 2106. |
| 5336(c)(1) .... | 49 App.:1607a(c)(1), (2), (d) (last sentence). | |
| 5336(c)(2) .... | 49 App.:1607a(c)(3). | |
| 5336(d)(1) .... | 49 App.:1607a (k)(2)(A). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(k)(2)(A); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§ 312(c)(1), (2), 327(b), 101 Stat. 228, 238. |
| 5336(d)(2) .... | 49 App.:1607a (k)(2)(B). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(k)(2)(B); added Apr. 2, 1987, Pub. L. 100–17, § 312(c)(3), 101 Stat. 228; Dec. 18, 1991, Pub. L. 102–240, § 3013(i), 105 Stat. 2107. |
| | 49 App.:1607a (k)(2)(C). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(k)(2)(C); added Apr. 2, 1987, Pub. L. 100–17, § 312(c)(3), 101 Stat. 228. |
| 5336(e) ..... | 49 App.:1607a(q). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(q); added Apr. 2, 1987, Pub. L. 100–17, § 312(e), 101 Stat. 229. |
| 5336(f) ..... | 49 App.:1607a(m)(2). | |
| 5336(g) ..... | 49 App.:1607a(n). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(n); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2147; Apr. 2, 1987, Pub. L. 100–17, §§ 312(d), 327(b), 101 Stat. 229, 238. |

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

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5336(h) ..... | 49 App.:1607a(t). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(t); added Dec. 18, 1991, Pub. L. 102–240, § 3013(k), 105 Stat. 2108. |
| 5336(i) ..... | 49 App.:1607a(*o*). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(*o*); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2147; Apr. 2, 1987, Pub. L. 100–17, §§ 311, 327(b), 101 Stat. 228, 238. |
| 5336(j) ..... | 49 App.:1607a(e)(1). | |
| 5336(k) ..... | 49 App.:1607a(s). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(s); added Dec. 18, 1991, Pub. L. 102–240, § 3013(j), 105 Stat. 2108. |

In this section, the word ''apportioned'' is substituted for ''available'', ''shall be available for expenditure'', ''made available'', and ''made available for expenditure'' for clarity and consistency in this chapter.

In subsection (a)(1), before subclause (A), the words ''the sum of'' are omitted as surplus.

In subsection (b)(2)(D), the word ''provided'' is omitted as surplus. The words ''is deemed'' are substituted for ''as if . . . were'' for consistency in the revised title and with other titles of the United States Code. The words ''directly or indirectly'' are omitted as surplus.

In subsection (c)(1)(B), before clause (i), the words ''of at least 200,000'' are added for clarity.

In subsection (d)(1)(D), the words ''Notwithstanding the preceding sentence'' and ''each fiscal year'' are omitted as surplus.

In subsection (d)(2), the words ''Beginning on October 1, 1991'' are omitted as executed. The words ''paragraph (1) of this subsection'' are substituted for ''under this section that may be used for operating assistance by urbanized areas'' to eliminate unnecessary words. The words ''(if any)'' are omitted as surplus. The words ''Secretary of Labor'' are substituted for ''Department of Labor'' because of 29:551. The text of 49 App.:1607a(k)(2)(B) (2d sentence) is omitted as executed. The text of 49 App.:1607a(k)(2)(B) (last sentence) is omitted as surplus.

In subsection (e)(1), the words ''under section 5338(f) of this title'' are added for clarity. The words ''in accordance with the provisions of this section'' are omitted as surplus.

In subsection (e)(2), the words ''established by the preceding sentence'' are omitted as surplus.

In subsection (g)(1) and (2), the word ''part'' is substituted for ''amount'' for clarity.

In subsection (g)(4), the words ''including areas of 200,000 or more population'' are omitted as surplus.

In subsection (h), the words ''in each fiscal year beginning after September 30, 1991'' are omitted as obsolete.

In subsection (i), the words ''the close of'' are omitted as surplus.

In subsection (j), the references to sections 5302(a)(8) and 5318 are added for clarity. The source provisions of sections 5302(a)(8) and 5318, enacted by section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17, 101 Stat. 233), were not intended to come under the exclusion stated in 49 App.:1607a(e)(1). The words ''condition, limitation, or other'' and ''for programs of projects'' are omitted as surplus.

In subsection (k), the text of 49 App.:1607a(s)(1) is omitted as obsolete.

PUB. L. 104–287

This amends 49:5336(b)(2) to clarify the restatement of 49 App.:1607a(b) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 840).

REFERENCES IN TEXT

The date of enactment of the Federal Public Transportation Act of 2005, referred to in subsec. (k)(2)(A), is

the date of enactment of title III of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–244, § 201(*l*)(1)(A), in introductory provisions, substituted ''Of the amount apportioned under subsection (i)(2) to carry out section 5307—'' for ''Of the amount apportioned under subsection (i)(2)—''.

Subsec. (a)(2). Pub. L. 110–244, § 201(*l*)(2), amended Pub. L. 109–59, § 3034(d)(2). See 2005 Amendment note below.

Subsec. (c). Pub. L. 110–244, § 201(*l*)(1)(C), redesignated subsec. (c) relating to study on incentives in formula programs as (k).

Subsec. (d)(1). Pub. L. 110–244, § 201(*l*)(1)(B), substituted ''subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338'' for ''subsections (a) and (h)(2) of section 5338''.

Subsec. (k). Pub. L. 110–244, § 201(*l*)(1)(C), redesignated subsec. (c) relating to study on incentives in formula programs as (k).

2005—Subsec. (a). Pub. L. 109–59, § 3034(d)(1), which directed amendment of subsec. (a) by substituting ''to carry out section 5307'' for ''of this title'', could not be executed because of prior amendment by Pub. L. 109–59, § 3034(a)(4). See below.

Pub. L. 109–59, § 3034(a)(4), substituted ''Of the amount apportioned under subsection (i)(2)'' for ''Of the amount made available or appropriated under section 5338(a) of this title'' in introductory provisions.

Subsec. (a)(2). Pub. L. 109–59, § 3034(d)(2), as amended by Pub. L. 110–244, § 201(*l*)(2), inserted before period at end '', except that the amount apportioned to the Anchorage urbanized area under subsection (b) shall be available to the Alaska Railroad for any costs related to its passenger operations''.

Subsec. (b)(1). Pub. L. 109–59, § 3034(d)(3), inserted ''and, beginning in fiscal year 2006, 60 percent of the directional route miles attributable to the Alaska Railroad passenger operations'' before period at end.

Subsec. (c). Pub. L. 109–59, § 3034(c), added at end of section subsec. (c) relating to study on incentives in formula programs.

Subsecs. (d) to (f). Pub. L. 109–59, § 3034(a)(1), (2), redesignated subsecs. (e) to (g) as (d) to (f), respectively, and struck out former subsec. (d) which read as follows: ''[Reserved.]''.

Subsec. (g). Pub. L. 109–59, § 3034(a)(2), redesignated subsec. (i) as (g). Former subsec. (g) redesignated (f).

Subsec. (g)(1). Pub. L. 109–59, § 3002(b)(4), substituted ''public transportation'' for ''mass transportation''.

Subsec. (h). Pub. L. 109–59, § 3034(d)(4), substituted ''a grant made with funds apportioned under'' for ''a grant made under'' in two places.

Pub. L. 109–59, § 3034(a)(1), (2), redesignated subsec. (j) as (h) and struck out heading and text of former subsec. (h). Text read as follows: ''If sufficient amounts are available, the Secretary of Transportation shall change apportionments under this section between the Mass Transit Account of the Highway Trust Fund and the general fund to ensure that each recipient receives from the general fund at least as much operating assistance made available each fiscal year under this section as the recipient is eligible to receive.''

Subsec. (i). Pub. L. 109–59, § 3034(a)(3), added subsec. (i). Former subsec. (i) redesignated (g).

Subsec. (j). Pub. L. 109–59, § 3034(b), added subsec. (j). Former subsec. (j) redesignated (h).

Subsec. (k). Pub. L. 109–59, § 3034(a)(1), struck out heading and text of subsec. (k). Text read as follows: ''An area designated an urbanized area under the 1980 census and not designated an urbanized area under the 1990 census for the fiscal year ending September 30, 1993, is eligible to receive—

''(1) 50 percent of the amount the area would have received if the area had been an urbanized area as defined by section 5302(a)(13) of this title; and

''(2) an amount equal to 50 percent of the amount that the State in which the area is located would have received if the area had been an area other than an urbanized area.''

1998—Pub. L. 105–178, § 3027(a), substituted ''formula grants'' for ''block grants'' in section catchline.

Subsec. (a). Pub. L. 105–178, § 3029(b)(10), substituted ''5338(a) of this title'' for ''5338(f) of this title'' in introductory provisions.

Subsec. (d). Pub. L. 105–178, § 3027(b), amended subsec. (d) generally, substituting ''[Reserved.]'' for former provisions relating to operating assistance.

Subsec. (e)(1). Pub. L. 105–178, § 3029(b)(11), substituted ''subsections (a) and (h)(2) of section 5338'' for ''section 5338(f)''.

1996—Subsec. (b)(2)(A), (B). Pub. L. 104–287, § 5(19)(A), inserted at end ''An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.''

Subsec. (b)(2)(C) to (E). Pub. L. 104–287, § 5(19)(B), (C), redesignated subpars. (D) and (E) as (C) and (D), respectively, and struck out former subpar. (C) which read as follows: ''An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subsection.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 201(*l*)(2) of Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of Title 23, Highways.

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.

URBANIZED AREA FORMULA STUDY

Pub. L. 105–178, title III, § 3033, June 9, 1998, 112 Stat. 386, provided that:

''(a) STUDY.—The Secretary [of Transportation] shall conduct a study to determine whether the formula for apportioning funds to urbanized areas under section 5336 of title 49, United States Code, accurately reflects the transit needs of the urbanized areas and, if not, whether any changes should be made either to the formula or through some other mechanism to reflect the fact that some urbanized areas with a population between 50,000 and 200,000 have transit systems that carry more passengers per mile or hour than the average of those transit systems in urbanized areas with a population over 200,000.

''(b) REPORT.—Not later than December 31, 1999, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study conducted under this section, together with any proposed changes to the method for apportioning funds to urbanized areas with a population over 50,000.''

## § 5337. Apportionment based on fixed guideway factors

(a) DISTRIBUTION.—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for each of fiscal years 2005 through 2010 as follows:

(1) The first $497,700,000 shall be apportioned in the following urbanized areas as follows:

(A) Baltimore, $8,372,000.

(B) Boston, $38,948,000.

(C) Chicago/Northwestern Indiana, $78,169,000.

(D) Cleveland, $9,509,500.

(E) New Orleans, $1,730,588.

(F) New York, $176,034,461.
(G) Northeastern New Jersey, $50,604,653.
(H) Philadelphia/Southern New Jersey, $58,924,764.
(I) Pittsburgh, $13,662,463.
(J) San Francisco, $33,989,571.
(K) Southwestern Connecticut, $27,755,000.

(2) The next $70,000,000 shall be apportioned as follows:

(A) 50 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A).

(B) 50 percent in other urbanized areas eligible for assistance under section 5336(b)(2)(A) to which amounts were apportioned under this section for fiscal year 1997, as provided in section 5336(b)(2)(A) and subsection (e)(1) of this section.

(3) The next $5,700,000 shall be apportioned in the following urbanized areas as follows:

(A) Pittsburgh, 61.76 percent.
(B) Cleveland, 10.73 percent.
(C) New Orleans, 5.79 percent.
(D) 21.72 percent in urbanized areas to which paragraph (2)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e)(1) of this section.

(4) The next $186,600,000 shall be apportioned in each urbanized area to which paragraph (1) applies and in each urbanized area to which paragraph (2)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e)(1) of this section.

(5) The next $70,000,000 shall be apportioned as follows:

(A) 65 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(B) 35 percent to other urbanized areas eligible for assistance under section 5336(b)(2)(A) if the areas contain fixed guideway systems placed in revenue service at least 7 years before the fiscal year in which amounts are made available and in any urbanized area if, before the first day of the fiscal year, the area satisfies the Secretary that the area has modernization needs that cannot adequately be met with amounts received under section 5336(b)(2)(A), as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(6) The next $50,000,000 shall be apportioned as follows:

(A) 60 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(B) 40 percent to urbanized areas to which paragraph (5)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(7) Remaining amounts shall be apportioned as follows:

(A) 50 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(B) 50 percent to urbanized areas to which paragraph (5)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(b) TOTAL AMOUNTS NOT AVAILABLE.—In a fiscal year in which the total amounts authorized under subsection (a)(1) and (2) of this section are not available, the Secretary shall reduce on a proportionate basis the apportionments of all urbanized areas eligible under subsection (a)(1) or (2) to adjust for the amount not available.

(c) NEW JERSEY TRANSIT CORPORATION.—Rail modernization amounts allocated to the New Jersey Transit Corporation under this section may be spent in any urbanized area in which the New Jersey Transit Corporation operates rail transportation, regardless of which urbanized area generates the financing.

(d) AVAILABILITY OF AMOUNTS.—An amount apportioned under this section—

(1) remains available for 3 years after the fiscal year in which the amount is apportioned; and

(2) that is unobligated at the end of the 3-year period shall be reapportioned for the next fiscal year among urbanized areas eligible under subsection (a)(1)–(3) of this section using the apportionment formula of this section.

(e) ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—

(1) 1997 STANDARD.—Amounts apportioned under paragraphs (2)(B), (3), and (4) of subsection (a) shall have attributable to each urbanized area only the number of fixed guideway revenue miles of service and number of fixed guideway route miles for segments of fixed guideway systems used to determine apportionments for fiscal year 1997.

(2) OTHER STANDARDS.—Amounts apportioned under paragraphs (5) through (7) of subsection (a) shall have attributable to each urbanized area only the number of fixed guideway revenue miles of service and number of fixed guideway route-miles for segments of fixed guideway systems placed in revenue service at least 7 years before the fiscal year in which amounts are made available.

(f) ADJUSTMENT.—For purposes of this section, an urbanized area with a population of 55,997, according to the most recent decennial census, shall be treated as an urbanized area eligible for assistance under section 5336(b)(2)(A) to which amounts were apportioned under this section for fiscal year 1997. For the purposes of subsection (e)(1), the number of fixed guideway revenue vehicle miles of service and number of fixed guideway route miles for that urbanized area as of the date of enactment of the Federal Public Transportation Act of 2005 shall be considered to have been used to determine apportionments for fiscal year 1997.

(g) SPECIAL RULE FOR OCTOBER 1, 2010, THROUGH MARCH 4, 2011.—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning October 1, 2010, and ending March 4, 2011, in accordance with subsection (a), except that the Secretary shall apportion $^{155}/_{365}$ths of each dollar amount specified in subsection (a).

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 844; Pub. L. 103–429, § 6(14), Oct. 31, 1994, 108 Stat.

4379; Pub. L. 102–240, title III, § 3049(b), as added Pub. L. 105–130, § 8, Dec. 1, 1997, 111 Stat. 2559; Pub. L. 105–178, title III, §§ 3028, 3029(b)(12), June 9, 1998, 112 Stat. 366, 373; Pub. L. 105–206, title IX, § 9009(p), July 22, 1998, 112 Stat. 858; Pub. L. 108–88, § 8(b)(2), Sept. 30, 2003, 117 Stat. 1121; Pub. L. 109–59, title III, § 3035(a), Aug. 10, 2005, 119 Stat. 1629; Pub. L. 110–244, title II, § 201(m), June 6, 2008, 122 Stat. 1611; Pub. L. 111–147, title IV, § 435, Mar. 18, 2010, 124 Stat. 89; Pub. L. 111–322, title II, § 2305, Dec. 22, 2010, 124 Stat. 3528.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5337(a) ..... | 49 App.:1602(h)(1)–(4). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(h)(1)–(6); added Aug. 22, 1974, Pub. L. 93–503, § 110, 88 Stat. 1573; Nov. 6, 1978, Pub. L. 95–599, § 302(d), 92 Stat. 2737; restated Dec. 18, 1991, Pub. L. 102–240, § 3008, 105 Stat. 2091. |
| 5337(b) ..... | 49 App.:1602(h)(5). | |
| 5337(c) ..... | 49 App.:1602(h)(6). | |
| 5337(d) ..... | 49 App.:1602(h)(7). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(h)(7); added Oct. 6, 1992, Pub. L. 102–388, § 502(c), 106 Stat. 1566. |

In subsection (a), the words ''for expenditure'' are omitted for consistency in this chapter. Before clause (1), the reference to fiscal year 1992 is omitted as obsolete.

In subsection (c), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The word ''paragraph'' in the source provision is translated as it were ''subsection'' to reflect the apparent intent of Congress.

In subsection (d)(1), the words ''for obligation'', ''a period of'', and ''the close of'' are omitted as surplus.

PUB. L. 103–429

This amends 49:5337(a)(4) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The date of enactment of the Federal Public Transportation Act of 2005, referred to in subsec. (f), is the date of enactment of title III of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–147, § 435(1), substituted ''2010'' for ''2009'' in introductory provisions.

Subsec. (g). Pub. L. 111–322 amended subsec. (g) generally. Prior to amendment, text read as follows: ''The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning October 1, 2010, and ending December 31, 2010, in accordance with subsection (a), except that the Secretary shall apportion 25 percent of each dollar amount specified in subsection (a).''

Pub. L. 111–147, § 435(2), added subsec. (g).

2008—Subsec. (a). Pub. L. 110–244 substituted ''for each of fiscal years 2005 through 2009'' for ''for each of fiscal years 1998 through 2003'' in introductory provisions.

2005—Pub. L. 109–59, § 3035(a)(1), substituted ''Apportionment based on fixed guideway factors'' for ''Apportionment of appropriations for fixed guideway modernization'' in section catchline.

Subsec. (f). Pub. L. 109–59, § 3035(a)(2), added subsec. (f).

2003—Subsec. (e). Pub. L. 108–88 struck out subsec. (e) relating to special rule.

1998—Subsec. (a). Pub. L. 105–178, § 3028(c), as added by Pub. L. 105–206, in par. (2)(B), substituted ''(e)(1)'' for ''(e)'', in par. (3)(D), substituted ''(2)(B)'' for ''(2)(B)(ii)'' and ''(e)(1)'' for ''(e)'', in par. (4), substituted ''(e)(1)'' for ''(e)'', and in pars. (5) to (7), substituted ''(e)(2)'' for ''(e)'' wherever appearing.

Pub. L. 105–178, § 3028(a), amended heading and text of subsec. (a) generally, substituting provisions relating to distribution for fiscal years 1998 through 2003 for provisions relating to percentage distribution for fiscal years ending Sept. 30, 1993–1997 and for period of Oct. 1, 1997 through Mar. 31, 1998.

Subsec. (e). Pub. L. 105–178, § 3028(b), added subsec. (e) relating to route segments to be included in apportionment formulas.

Subsec. (e)(1). Pub. L. 105–178, § 3029(b)(12), which directed substitution of ''subsections (b) and (h)(4) of section 5338'' for ''section 5338(f)'', could not be executed because ''section 5338(f)'' does not appear in text.

1997—Subsec. (a). Pub. L. 102–240, § 3049(b)(1), as added by Pub. L. 105–130, inserted ''and for the period of October 1, 1997, through March 31, 1998,'' after ''1997,'' in introductory provisions.

Subsec. (e). Pub. L. 102–240, § 3049(b)(2), as added by Pub. L. 105–130, added subsec. (e).

1994—Subsec. (a)(4). Pub. L. 103–429 substituted ''section 5336(b)(2)(A) of this title'' for ''section 5336(B)(2)(A)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

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.

SPECIAL RULE FOR PARTIAL FISCAL YEAR FUNDING

Pub. L. 108–310, § 8(b), Sept. 30, 2004, 118 Stat. 1154, provided that: ''The Secretary of Transportation shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under section 5337 of title 49, United States Code, on a pro rata basis to reflect the partial fiscal year 2005 funding made available by sections 5338(b)(2)(A)(vii) and 5338(b)(2)(B)(vii) of such title.''

Pub. L. 108–88, § 8(b)(1), Sept. 30, 2003, 117 Stat. 1121, as amended by Pub. L. 108–202, § 9(b), Feb. 29, 2004, 118 Stat. 485; Pub. L. 108–224, § 7(b), Apr. 30, 2004, 118 Stat. 633; Pub. L. 108–263, § 7(b), June 30, 2004, 118 Stat. 704, which directed the Secretary of Transportation to determine the amount that each urbanized area would be apportioned for fixed guideway modernization under section 5337 of this title on a pro rata basis reflecting partial fiscal year 2004 funding made available under section 5338 of this title, was repealed by Pub. L. 108–280, § 7(b), July 30, 2004, 118 Stat. 882.

## § 5338. Authorizations

(a) FISCAL YEAR 2005.—

(1) FORMULA GRANTS.—

(A) TRUST FUND.—For fiscal year 2005, $3,499,927,776 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, and 5311 and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $499,989,824 for fiscal year 2005 to carry out

sections 5307, 5308, 5310, and 5311 and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

(i) $4,811,150 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

(ii) $5,208,000 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) to operators of intercity, fixed-route over-the-road buses;

(iii) $1,686,400 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) to operators of over-the-road buses providing other than intercity, fixed-route service;

(iv) $94,526,689 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

(v) $250,889,588 shall be available to provide financial assistance for other than urbanized areas under section 5311;

(vi) $3,593,195,773 shall be available to provide financial assistance for urbanized areas under section 5307; and

(vii) $49,600,000 shall be available to carry out the clean fuels program under section 5308.

(2) JOB ACCESS AND REVERSE COMMUTE.—

(A) TRUST FUND.—For fiscal year 2005, $108,500,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $15,500,000 for fiscal year 2005 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

(3) CAPITAL PROGRAM GRANTS.—

(A) TRUST FUND.—For fiscal year 2005, $2,898,100,224 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $414,014,176 for fiscal year 2005 to carry out sections 5308, 5309, and 5318 and section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361).

(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

(i) $49,600,000 shall be available to carry out the clean fuels program under section 5308;

(ii) $669,600,000 shall be available for capital projects to replace, rehabilitate, and purchase bus and related equipment and to construct bus-related facilities under section 5309;

(iii) $1,204,684,800 shall be available for fixed guideway modernization under section 5309;

(iv) $1,437,829,600 shall be available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems under section 5309;

(v) $10,213,632 shall be available for capital projects in Alaska and Hawaii under section 5309;

(vi) $2,976,000 shall be available to carry out bus testing under section 5318; and

(vii) $4,811,200 shall be available to carry out the fuel cell bus and bus facilities program under section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361).

(4) PLANNING.—

(A) TRUST FUND.—For fiscal year 2005, $63,364,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5303, 5304, 5305, and 5313(b), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $9,052,000 for fiscal year 2005 to carry out sections 5303, 5304, 5305, and 5313(b), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

(i) 82.72 percent shall be allocated for metropolitan planning under section 5305; and

(ii) 17.28 percent shall be allocated for State planning under section 5305.

(5) RESEARCH.—

(A) TRUST FUND.—For fiscal year 2005, $47,740,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322.

(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $6,820,000 for fiscal year 2005 to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322.

(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

(i) not less than $3,968,000 shall be available to carry out programs under the National Transit Institute under section 5315, of which not more than $992,000 shall be available to carry out section 5315(a)(16);

(ii) not less than $5,208,000 shall be available to provide rural transportation assistance under section 5311(b)(2);

(iii) not less than $8,184,000 shall be available to carry out transit cooperative research programs under section 5313(a);

(iv) not less than $2,976,000 shall be available to carry out Project Action under section 5312; and

(v) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

(6) UNIVERSITY TRANSPORTATION RESEARCH.—

(A) TRUST FUND.—For fiscal year 2005, $5,208,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5505.

(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there is authorized to be appropriated $744,000 for fiscal year 2005 to carry out section 5505.

(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

(i) $1,984,000 shall be available for grants under section 5505(d) to the center identified in section 5505(j)(4)(A), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005; and

(ii) $1,984,000 shall be available for grants under section 5505(d) to the center identified in section 5505(j)(4)(F), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

(D) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

(7) ADMINISTRATION.—

(A) TRUST FUND.—For fiscal year 2005, $67,704,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there is authorized to be appropriated $9,672,000 for fiscal year 2005 to carry out section 5334.

(8) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.

(b) FORMULA AND BUS GRANTS.—

(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 and section 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—[1]

(A) $6,979,931,000 for fiscal year 2006;

(B) $7,262,775,000 for fiscal year 2007;

(C) $7,872,893,000 for fiscal year 2008;

(D) $8,360,565,000 for fiscal year 2009;

(E) $8,360,565,000 for fiscal year 2010; and

(F) $3,550,376,000 for the period beginning October 1, 2010, and ending March 4, 2011.

(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

(A) $95,000,000 for fiscal year 2006, $99,000,000 for fiscal year 2007, $107,000,000 for fiscal year 2008, $113,500,000 for each of fiscal years 2009 and 2010, and $48,198,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be available to carry out section 5305;

(B) $3,466,681,000 for fiscal year 2006, $3,606,175,000 for fiscal year 2007, $3,910,843,000 for fiscal year 2008, $4,160,365,000 for each of fiscal years 2009 and 2010, and $1,766,730,000 for the period beginning October 1, 2010, and ending March 4, 2011, shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

(C) $43,000,000 for fiscal year 2006, $45,000,000 for fiscal year 2007, $49,000,000 for fiscal year 2008, $51,500,000 for each of fiscal years 2009 and 2010, and $21,869,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be available to carry out section 5308;

(D) $1,391,000,000 for fiscal year 2006, $1,448,000,000 for fiscal year 2007, $1,570,000,000 for fiscal year 2008, $1,666,500,000 for each of fiscal years 2009 and 2010, and $707,691,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(m)(2)(B);

(E) $822,250,000 for fiscal year 2006, $855,500,000 for fiscal year 2007, $927,750,000 for fiscal year 2008, $984,000,000 for each of fiscal years 2009 and 2010, and $417,863,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be available to carry out section 5309(m)(2)(C);

(F) $112,000,000 for fiscal year 2006, $117,000,000 for fiscal year 2007, $127,000,000 for fiscal year 2008, $133,500,000 for each of fiscal years 2009 and 2010, and $56,691,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

(G) $388,000,000 for fiscal year 2006, $404,000,000 for fiscal year 2007, $438,000,000 for fiscal year 2008, $465,000,000 for each of fiscal years 2009 and 2010, and $197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be available to provide financial assistance for other than urbanized areas under section 5311;

(H) $138,000,000 for fiscal year 2006, $144,000,000 for fiscal year 2007, $156,000,000 for fiscal year 2008, $164,500,000 for each of fiscal years 2009 and 2010, and $69,856,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be available to carry out section 5316;

(I) $78,000,000 for fiscal year 2006, $81,000,000 for fiscal year 2007, $87,500,000 for fiscal year 2008, $92,500,000 for each of fiscal years 2009 and 2010, and $39,280,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be available to carry out section 5317;

(J) $22,000,000 for fiscal year 2006, $23,000,000 for fiscal year 2007, $25,000,000 for fiscal year 2008, $26,900,000 for each of fiscal years 2009 and 2010, and $11,423,000 for the period begin-

[1] So in original. Probably should be ''(112 Stat. 392)—''.

ning October 1, 2010 and ending March 4, 2011, shall be available to carry out section 5320;

(K) $3,500,000 in fiscal year 2006; $3,500,000 in fiscal year 2007; $3,500,000 in fiscal year 2008; $3,500,000 for each of fiscal years 2009 and 2010, and $1,486,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be available to carry out section 5335;

(L) $25,000,000 in fiscal year 2006; $25,000,000 in fiscal year 2007; $25,000,000 in fiscal year 2008; $25,000,000 for each of fiscal years 2009 and 2010, and $10,616,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be available to carry out section 5339;

(M) $388,000,000 for fiscal year 2006, $404,000,000 for fiscal year 2007, $438,000,000 for fiscal year 2008, $465,000,000 for each of fiscal years 2009 and 2010, and $197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

(N) $7,500,000 for fiscal year 2006, $7,600,000 for fiscal year 2007, $8,300,000 for fiscal year 2008, $8,800,000 for each of fiscal years 2009 and 2010, and $3,736,000 for the period beginning October 1, 2010 and ending March 4, 2011, shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

(c) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(m)(2)(A)—

(1) $1,503,000,000 for fiscal year 2006;

(2) $1,566,000,000 for fiscal year 2007;

(3) $1,700,000,000 for fiscal year 2008;

(4) $1,809,250,000 for fiscal year 2009;

(5) $2,000,000,000 for fiscal year 2010; and

(6) $849,315,000 for the period of October 1, 2010 through March 4, 2011.

(d) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5506, and national research programs under sections 5312, 5313, 5314, and 5322 $58,000,000 for fiscal year 2006, $61,000,000 for fiscal year 2007, $65,500,000 for fiscal year 2008, $69,750,000 for each of fiscal years 2009 and 2010, and $29,619,000 for the period beginning October 1, 2010 and ending March 4, 2011, of which—

(A) $9,000,000 for fiscal year 2006, $9,300,000 for fiscal year 2007, $9,600,000 for fiscal year 2008, and $10,000,000 for fiscal year 2009 shall be allocated to carry out transit cooperative research programs under section 5313;

(B) $4,300,000 shall be allocated for each fiscal year to carry out programs under the National Transit Institute under section 5315, of which not more than $1,000,000 for each fiscal year shall be used to carry out section 5315(b)(2)(P);

(C) $7,000,000 shall be allocated for each fiscal year to carry out the university centers program under section 5506;

(D) $3,000,000 shall be allocated for each fiscal year to carry out Project Action under section 5314(a)(2);

(E) $1,000,000 shall be allocated for each fiscal year to carry out the National Technical Assistance Center under section 5314(c); and

(F) any funds made available under this paragraph that are not allocated under subparagraphs (A) through (E) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322.

(2) UNIVERSITY CENTERS PROGRAM.—

(A) ALLOCATION.—Of the amounts allocated under paragraph (1)(C), the following amounts shall be available to provide transportation research, training, and curriculum development:

(i) $2,000,000 for each of fiscal years 2006 through 2009 for the University of Tennessee—Knoxville National Transportation Research Center.

(ii) $1,500,000 for each of fiscal years 2006 through 2009 for Texas A&M University—Texas Transportation Institute.

(iii) $1,000,000 for each of fiscal years 2006 through 2009 for Morgan State University.

(iv) $400,000 for each of fiscal years 2006 and 2007 for the Small Urban and Rural Transit Center at North Dakota State University.

(v) $550,000 for each of fiscal years 2006 and 2007 and $650,000 for each of fiscal years 2008 and 2009 for the University Transportation Center at the University of Alabama.

(vi) $450,000 for each of fiscal years 2006 and 2007 and $550,000 for each of fiscal years 2008 and 2009 for the Injury Control Research Center at the University of Alabama Birmingham.

(vii) $550,000 for each of fiscal years 2006 and 2007 and $650,000 for each of fiscal years 2008 and 2009 for the Jackson State University Intermodal Transportation Institute at the Jackson State University.

(viii) $550,000 for each of fiscal years 2006 and 2007 and $650,000 for each of fiscal years 2008 and 2009 for the University Transportation Center at the University of Denver/Mississippi State University.

(B) REQUIREMENTS.—The universities specified in subparagraph (A) shall be considered to be university transportation centers under section 5506 and shall be subject to the requirements of subsections (b), (h), (i), (k), (*l*), and (m) of such section.

(3) ADDITIONAL AUTHORIZATIONS.—

(A) IN GENERAL.—

(i) FISCAL YEAR 2010.—Of amounts authorized to be appropriated for fiscal year 2010 under paragraph (1), the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to the amount allocated for fiscal year 2009 under each such subparagraph.

(ii) OCTOBER 1, 2010 THROUGH MARCH 4, 2011.—Of amounts authorized to be appropriated for the period beginning October 1, 2010, through March 4, 2011, under paragraph (1), the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 155/365ths of the amount allocated for fiscal year 2009 under each such subparagraph.

(B) UNIVERSITY CENTERS PROGRAM.—

(i) FISCAL YEAR 2010.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for fiscal year 2010, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to the amount allocated for fiscal year 2009 under each such clause.

(ii) OCTOBER 1, 2010 THROUGH MARCH 4, 2011.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for the period beginning October 1, 2010, and ending March 4, 2011, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 155/365ths of the amount allocated for fiscal year 2009 under each such clause.

(iii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2010, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under clause (i) or (ii) for the project or activity for fiscal year 2011, or any subsequent fiscal year.

(e) ADMINISTRATION.—There is authorized to be appropriated to carry out section 5334—

(1) $82,000,000 for fiscal year 2006;
(2) $85,000,000 for fiscal year 2007;
(3) $92,500,000 for fiscal year 2008;
(4) $98,500,000 for fiscal year 2009;
(5) $98,911,000 for fiscal year 2010; and
(6) $42,003,000 for the period of October 1, 2010 through March 4, 2011.

(f) GRANTS AS CONTRACTUAL OBLIGATIONS.—

(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project.

(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

(g) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b), (c), and (d) shall remain available until expended.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 845; Pub. L. 104–287, § 5(20), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 102–240, § 3049(c), as added Pub. L. 105–130, § 8, Dec. 1, 1997, 111 Stat. 2559; Pub. L. 105–178, title III, § 3029(a), (c), June 9, 1998, 112 Stat. 368; Pub. L. 105–206, title IX, § 9009(q), July 22, 1998, 112 Stat. 858; Pub. L. 108–88, § 8(c), (e)–(g), (i), (k), Sept. 30, 2003, 117 Stat. 1121–1124; Pub. L. 108–202, § 9(c), (e)–(g), (i), (k), Feb. 29, 2004, 118 Stat. 485–487; Pub. L. 108–224, § 7(c), (e)–(g), (i), (k), Apr. 30, 2004, 118 Stat. 633–636; Pub. L. 108–263, § 7(c), (e)–(g), (i), (k), June 30, 2004, 118 Stat. 704–707; Pub. L. 108–280, § 7(c), (e)–(g), (i), (k), July 30, 2004, 118 Stat. 882–884; Pub. L. 108–310, § 8(c), (e)–(g), (i), (k), Sept. 30, 2004, 118 Stat. 1154–1157; Pub. L. 109–14, § 7(b), (d)–(f), (h), (j), May 31, 2005, 119 Stat. 331–333; Pub. L. 109–20, § 7(b), (d)–(f), (h), (j), July 1, 2005, 119 Stat. 353–355; Pub. L. 109–35, § 7(b), (d)–(f), (h), (j), July 20, 2005, 119 Stat. 386–388; Pub. L. 109–37, § 7(b), (d)–(f), (h), (j), July 22, 2005, 119 Stat. 401–403; Pub. L. 109–40, § 7(b), (d)–(f), (h), (j), July 28, 2005, 119 Stat. 417–419; Pub. L. 109–42, § 5(a), July 30, 2005, 119 Stat. 436; Pub. L. 109–59, title III, § 3036, Aug. 10, 2005, 119 Stat. 1629; Pub. L. 110–244, title II, § 201(n), June 6, 2008, 122 Stat. 1611; Pub. L. 111–147, title IV, § 436, Mar. 18, 2010, 124 Stat. 90; Pub. L. 111–322, title II, § 2306, Dec. 22, 2010, 124 Stat. 3528.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5338(a) | 49 App.:1617(a) (less availability). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 21; added Jan. 6, 1983, Pub. L. 97–424, § 302(a), 96 Stat. 2140; Apr. 2, 1987, Pub. L. 100–17, § 328, 101 Stat. 238; restated Dec. 18, 1991, Pub. L. 102–240, § 3025, 105 Stat. 2112; Oct. 6, 1992, Pub. L. 102–388, § 502(m)–(q), 106 Stat. 1567. |
| 5338(b) | 49 App.:1617(b) (less availability). | |
| 5338(c) | 49 App.:1625(d) (1st sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 29(d); added Dec. 18, 1991, Pub. L. 102–240, § 6022, 105 Stat. 2185. |
| 5338(d) | 49 App.:1607c(c)(6). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 11(c)(6); added Dec. 18, 1991, Pub. L. 102–240, § 6024, 105 Stat. 2189; Sept. 23, 1992, Pub. L. 102–368, § 801, 106 Stat. 1131. |
| 5338(e)(1) | 49 App.:1607c(b)(8)(B)(iii), (13) (1st sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 11(b)(8)(B)(iii), (10)(C), (13); added Dec. 18, 1991, Pub. L. 102–240, § 6023, 105 Stat. 2186, 2187, 2188. |
| 5338(e)(2) | 49 App.:1607c(b)(1)(C). | |
| 5338(f) | 49 App.:1617(g). | |
| 5338(g)–(i) | 49 App.:1617(c) (less availability), (d) (less availability), (e). | |
| 5338(j)(1) | 49 App.:1612(b) (last sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 16(b) (last sentence); added Oct. 15, 1970, Pub. L. 91–453, § 8, 84 Stat. 968; Aug. 13, 1973, Pub. L. 93–87, § 301(g), 87 Stat. 296; restated Nov. 6, 1978, Pub. L. 95–599, § 311(a), 92 Stat. 2748; Jan. 6, 1983, Pub. L. 97–424, § 317(a), 96 Stat. 2153. |

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

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5338(j)(2) .... | 49 App.:1612(d). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 16(d); added Oct. 15, 1970, Pub. L. 91–453, § 8, 84 Stat. 968; Dec. 18, 1991, Pub. L. 102–240, § 3021(5), 105 Stat. 2110. |
| 5338(j)(3) .... | 49 App.:1603(c) (last sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 4(c) (last sentence); added Nov. 6, 1978, Pub. L. 95–599, § 303(e), 92 Stat. 2739; Dec. 18, 1991, Pub. L. 102–240, § 3006(h)(1), 105 Stat. 2090. |
| 5338(j)(4) .... | 49 App.:1617(f) (less availability). | |
| 5338(j)(5) .... | 49 App.:1602(m) (1st sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(m) (1st sentence); added Dec. 18, 1991, Pub. L. 102–240, § 3009, 105 Stat. 2093. |
| 5338(k) ..... | 49 App.:1607c(b)(13) (last sentence). 49 App.:1617(b)(4). 49 App.:1625(d) (last sentence). | |
| 5338(*l*)(1) ..... | 49 App.:1614(a) (last sentence). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 18(a) (last sentence); added Nov. 6, 1978, Pub. L. 95–599, § 313, 92 Stat. 2749. |
| 5338(*l*)(2) ..... | 49 App.:1617(a)–(d), (f) (as (a)–(d), (f) relate to availability). | |
| 5338(*l*)(3) ..... | 49 App.:1607a–2(c). | July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9B(c); added Apr. 2, 1987, Pub. L. 100–17, § 313, 101 Stat. 229. |

In this section, references to fiscal year 1992 are omitted as obsolete.

In subsections (a)(1) and (b)(1), before each clause (A), the word ''only'' is omitted as surplus.

In subsection (a)(1), before clause (A), the words ''for the Secretary of Transportation'' are added or clarity and consistency.

In subsections (a)(2) and (b)(2), before each clause (A), and (d), before clause (1), the words ''to the Secretary'' are added for clarity and consistency.

In subsections (b)(1), before clause (A), and (e)(1), the words ''for the Secretary'' are added for clarity and consistency.

In subsection (d), the text of 49 App.:1607c(c)(6) (last sentence) is omitted as obsolete.

In subsection (e)(1), the word ''section'' in the source provision is translated as if it were ''subsection'' to reflect the apparent intent of Congress.

In subsection (h)(3), the words ''relating to university transportation centers'' are omitted as surplus.

In subsection (j)(2), the words ''set aside and'' and ''exclusively'' are omitted as surplus. The word ''mass'' is added for consistency in this chapter.

In subsection (k)(1), the words ''Notwithstanding any other provision of law'' in 49 App.:1607c(b)(13) (last sentence) and 1625(d) (last sentence) are omitted as surplus. The words ''financed with'' are added for clarity.

In subsection (k)(2), the words ''that is financed with'' are added for clarity.

In subsection (*l*)(3)(A), the words ''for obligation by the recipient'', ''a period of'', and ''the close of'' are omitted as surplus.

PUB. L. 104–287

This amends 49:5338(g)(2) to correct an erroneous cross-reference.

REFERENCES IN TEXT

Section 3038 of the Transportation Equity Act for the 21st Century, referred to in subsecs. (a)(1) and (b)(2)(N), is section 3038 of Pub. L. 105–178, which is set out as a note under section 5310 of this title.

Section 3037 of the Transportation Equity Act for the 21st Century, referred to in subsec. (a)(2), is section 3037 of Pub. L. 105–178, which was set out as a note under section 5309 of this title prior to repeal by Pub. L. 109–59, title III, § 3018(c), Aug. 10, 2005, 119 Stat. 1605, effective Oct. 1, 2005.

Section 3015(b) of the Transportation Equity Act for the 21st Century, referred to in subsec. (a)(3)(B), (C)(vii), is section 3015(b) of Pub. L. 105–178, title III, June 9, 1998, 112 Stat. 361, which is not classified to the Code.

The date of enactment of the Federal Public Transportation Act of 2005, referred to in subsec. (a)(4)(A), (B), (6)(C), is the date of enactment of title III of Pub. L. 109–59, which was approved Aug. 10, 2005.

Section 3038 of the Federal Transit Act of 1998, referred to in subsec. (b)(1), is section 3038 of title III of Pub. L. 105–178, which is set out as a note under section 5310 of this title.

AMENDMENTS

2010—Subsec. (b)(1)(E). Pub. L. 111–147, § 436(a)(1), added subpar. (E).

Subsec. (b)(1)(F). Pub. L. 111–322, § 2306(a)(1), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''$2,090,141,250 for the period beginning October 1, 2010, and ending December 31, 2010.''

Pub. L. 111–147, § 436(a)(1), added subpar. (F).

Subsec. (b)(2)(A). Pub. L. 111–322, § 2306(a)(2)(A), substituted ''$48,198,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$28,375,000 for the period beginning October 1, 2010, and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(A), substituted ''$113,500,000 for each of fiscal years 2009 and 2010, and $28,375,000 for the period beginning October 1, 2010, and ending December 31, 2010,'' for ''and $113,500,000 for fiscal year 2009''.

Subsec. (b)(2)(B). Pub. L. 111–322, § 2306(a)(2)(B), substituted ''$1,766,730,000 for the period beginning October 1, 2010, and ending March 4, 2011'' for ''$1,040,091,250 for the period beginning October 1, 2010, and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(B), substituted ''$4,160,365,000 for each of fiscal years 2009 and 2010, and $1,040,091,250 for the period beginning October 1, 2010, and ending December 31, 2010,'' for ''and $4,160,365,000 for fiscal year 2009''.

Subsec. (b)(2)(C). Pub. L. 111–322, § 2306(a)(2)(C), substituted ''$21,869,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$12,875,000 for the period beginning October 1, 2010, and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(C), substituted ''$51,500,000 for each of fiscal years 2009 and 2010, and $12,875,000 for the period beginning October 1, 2010, and ending December 31, 2010,'' for ''and $51,500,000 for fiscal year 2009''.

Subsec. (b)(2)(D). Pub. L. 111–322, § 2306(a)(2)(D), substituted ''$707,691,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$416,625,000 for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(D), substituted ''$1,666,500,000 for each of fiscal years 2009 and 2010, and $416,625,000 for the period beginning October 1, 2010 and ending December 31, 2010,'' for ''and $1,666,500,000 for fiscal year 2009''.

Subsec. (b)(2)(E). Pub. L. 111–322, § 2306(a)(2)(E), substituted ''$417,863,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$246,000,000 for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(E), substituted ''$984,000,000 for each of fiscal years 2009 and 2010, and $246,000,000 for the period beginning October 1, 2010 and ending December 31, 2010,'' for ''and $984,000,000 for fiscal year 2009''.

Subsec. (b)(2)(F). Pub. L. 111–322, § 2306(a)(2)(F), substituted ''$56,691,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$33,375,000 for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(F), substituted ''$133,500,000 for each of fiscal years 2009 and 2010, and $33,375,000 for

the period beginning October 1, 2010 and ending December 31, 2010,'' for ''and $133,500,000 for fiscal year 2009''.

Subsec. (b)(2)(G). Pub. L. 111–322, § 2306(a)(2)(G), substituted ''$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(G), substituted ''$465,000,000 for each of fiscal years 2009 and 2010, and $116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010,'' for ''and $465,000,000 for fiscal year 2009''.

Subsec. (b)(2)(H). Pub. L. 111–322, § 2306(a)(2)(H), substituted ''$69,856,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$41,125,000 for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(H), substituted ''$164,500,000 for each of fiscal years 2009 and 2010, and $41,125,000 for the period beginning October 1, 2010 and ending December 31, 2010,'' for ''and $164,500,000 for fiscal year 2009''.

Subsec. (b)(2)(I). Pub. L. 111–322, § 2306(a)(2)(I), substituted ''$39,280,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$23,125,000 for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(I), substituted ''$92,500,000 for each of fiscal years 2009 and 2010, and $23,125,000 for the period beginning October 1, 2010 and ending December 31, 2010,'' for ''and $92,500,000 for fiscal year 2009''.

Subsec. (b)(2)(J). Pub. L. 111–322, § 2306(a)(2)(J), substituted ''$11,423,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$6,725,000 for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(J), substituted ''$26,900,000 for each of fiscal years 2009 and 2010, and $6,725,000 for the period beginning October 1, 2010 and ending December 31, 2010,'' for ''and $26,900,000 for fiscal year 2009''.

Subsec. (b)(2)(K). Pub. L. 111–322, § 2306(a)(2)(K), substituted ''$1,486,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$875,000 for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(K), which directed substitution of ''$3,500,000 for each of fiscal years 2009 and 2010, and $875,000 for the period beginning October 1, 2010 and ending December 31, 2010,'' for ''and $3,500,000 for fiscal year 2009'', was executed by making the substitution for ''and $3,500,000 in fiscal year 2009'', to reflect the probable intent of Congress.

Subsec. (b)(2)(L). Pub. L. 111–322, § 2306(a)(2)(L), ''$10,616,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$6,250,000 for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(L), which directed substitution of ''$25,000,000 for each of fiscal years 2009 and 2010, and $6,250,000 for the period beginning October 1, 2010 and ending December 31, 2010,'' for ''and $25,000,000 for fiscal year 2009'', was executed by making the substitution for ''and $25,000,000 in fiscal year 2009'', to reflect the probable intent of Congress.

Subsec. (b)(2)(M). Pub. L. 111–322, § 2306(a)(2)(M), substituted ''$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(M), substituted ''$465,000,000 for each of fiscal years 2009 and 2010, and $116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010,'' for ''and $465,000,000 for fiscal year 2009''.

Subsec. (b)(2)(N). Pub. L. 111–322, § 2306(a)(2)(N), substituted ''$3,736,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$2,200,000 for the period beginning October 1, 2010 and ending December 31, 2010''.

Pub. L. 111–147, § 436(a)(2)(N), substituted ''$8,800,000 for each of fiscal years 2009 and 2010, and $2,200,000 for the period beginning October 1, 2010 and ending December 31, 2010,'' for ''and $8,800,000 for fiscal year 2009''.

Subsec. (c)(5). Pub. L. 111–147, § 436(b), added par. (5).

Subsec. (c)(6). Pub. L. 111–322, § 2306(b), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''$500,000,000 for the period of October 1, 2010 through December 31, 2010.''

Pub. L. 111–147, § 436(b), added par. (6).

Subsec. (d)(1). Pub. L. 111–322, § 2306(c)(1), substituted ''$29,619,000 for the period beginning October 1, 2010 and ending March 4, 2011'' for ''$17,437,500 for the period beginning October 1, 2010, and ending December 31, 2010'' in introductory provisions.

Pub. L. 111–147, § 436(c)(1), substituted ''$69,750,000 for each of fiscal years 2009 and 2010, and $17,437,500 for the period beginning October 1, 2010, and ending December 31, 2010'' for ''and $69,750,000 for fiscal year 2009'' in introductory provisions.

Subsec. (d)(3). Pub. L. 111–147, § 436(c)(2), added par. (3).

Subsec. (d)(3)(A)(ii). Pub. L. 111–322, § 2306(c)(2), amended cl. (ii) generally. Prior to amendment, text read as follows: ''Of amounts authorized to be appropriated for the period beginning October 1, 2010, through December 31, 2010, under paragraph (1), the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 25 percent of the amount allocated for fiscal year 2009 under each such subparagraph.''

Subsec. (d)(3)(B)(ii). Pub. L. 111–322, § 2306(c)(3), amended cl. (ii) generally. Prior to amendment, text read as follows: ''Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for the period beginning October 1, 2010, and ending December 31, 2010, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 25 percent of the amount allocated for fiscal year 2009 under each such clause.''

Subsec. (d)(3)(B)(iii). Pub. L. 111–322, § 2306(c)(4), substituted ''2011'' for ''2010'' and ''2010'' for ''2009''.

Subsec. (e)(5). Pub. L. 111–147, § 436(d), added par. (5).

Subsec. (e)(6). Pub. L. 111–322, § 2306(d), amended par. (6) generally. Prior to amendment, text read as follows: ''$24,727,750 for the period beginning October 1, 2010, and ending December 31, 2010.''

Pub. L. 111–147, § 436(d), added par. (6).

2008—Subsec. (d)(1)(B). Pub. L. 110–244 substituted ''section 5315(b)(2)(P)'' for ''section 5315(a)(16)''.

2005—Pub. L. 109–59 amended section generally. Prior to amendment, section authorized appropriations and availability of funds to carry out sections 5303 to 5305, 5307 to 5315, 5322, and 5334 of this title for periods ranging from fiscal year 1998 to August 14, 2004.

Subsec. (a)(2). Pub. L. 109–40, § 7(b)(1), substituted ''JULY 30, 2005'' for ''JULY 27, 2005'' in heading.

Pub. L. 109–37, § 7(b)(1), substituted ''JULY 27, 2005'' for ''JULY 21, 2005'' in heading.

Pub. L. 109–35, § 7(b)(1), substituted ''JULY 21, 2005'' for ''JULY 19, 2005'' in heading.

Pub. L. 109–20, § 7(b)(1), substituted ''JULY 19, 2005'' for ''JUNE 30, 2005'' in heading.

Pub. L. 109–14, § 7(b)(1), substituted ''JUNE 30, 2005'' for ''MAY 31, 2005'' in heading.

Subsec. (a)(2)(A)(vii). Pub. L. 109–40, § 7(b)(2), substituted ''$2,796,817,658'' for ''$2,795,000,000'' and ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(b)(2), substituted ''$2,795,000,000'' for ''$2,793,483,000'' and ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(b)(2), substituted ''$2,793,483,000'' for ''$2,675,300,000'' and ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(b)(2), substituted ''$2,675,300,000'' for ''$2,545,785,000'' and ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(b)(2), substituted ''$2,545,785,000'' for ''$2,201,760,000'' and ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (a)(2)(B)(vii). Pub. L. 109–40, § 7(b)(3), substituted ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(b)(3), substituted ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(b)(3), substituted ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(b)(3), substituted ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(b)(3), substituted ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (a)(2)(C). Pub. L. 109–40, § 7(b)(4), substituted ''July 30, 2005'' for ''July 27, 2005'' in introductory provisions.

Pub. L. 109–37, § 7(b)(4), substituted ''July 27, 2005'' for ''July 21, 2005'' in introductory provisions.

Pub. L. 109–35, § 7(b)(4), substituted ''July 21, 2005'' for ''July 19, 2005'' in introductory provisions.

Pub. L. 109–20, § 7(b)(4), substituted ''July 19, 2005'' for ''June 30, 2005'' in introductory provisions.

Pub. L. 109–14, § 7(b)(4), substituted ''June 30, 2005'' for ''May 31, 2005'' in introductory provisions.

Subsec. (b)(2). Pub. L. 109–40, § 7(d)(1), substituted ''JULY 30, 2005'' for ''JULY 27, 2005'' in heading.

Pub. L. 109–37, § 7(d)(1), substituted ''JULY 27, 2005'' for ''JULY 21, 2005'' in heading.

Pub. L. 109–35, § 7(d)(1), substituted ''JULY 21, 2005'' for ''JULY 19, 2005'' in heading.

Pub. L. 109–20, § 7(d)(1), substituted ''JULY 19, 2005'' for ''JUNE 30, 2005'' in heading.

Pub. L. 109–14, § 7(d)(1), substituted ''JUNE 30, 2005'' for ''MAY 31, 2005'' in heading.

Subsec. (b)(2)(A)(vii). Pub. L. 109–40, § 7(d)(2), substituted ''$2,336,442,169'' for ''$2,309,000,366'' and ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(d)(2), substituted ''$2,309,000,366'' for ''$2,263,265,142'' and ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(d)(2), substituted ''$2,263,265,142'' for ''$2,235,820,000'' and ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(d)(2), substituted ''$2,235,820,000'' for ''$2,012,985,000'' and ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(d)(2), substituted ''$2,012,985,000'' for ''$1,740,960,000'' and ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (b)(2)(B)(vii). Pub. L. 109–40, § 7(d)(3), substituted ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(d)(3), substituted ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(d)(3), substituted ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(d)(3), substituted ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(d)(3), substituted ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (c)(2). Pub. L. 109–40, § 7(e)(1), substituted ''JULY 30, 2005'' for ''JULY 27, 2005'' in heading.

Pub. L. 109–37, § 7(e)(1), substituted ''JULY 27, 2005'' for ''JULY 21, 2005'' in heading.

Pub. L. 109–35, § 7(e)(1), substituted ''JULY 21, 2005'' for ''JULY 19, 2005'' in heading.

Pub. L. 109–20, § 7(e)(1), substituted ''JULY 19, 2005'' for ''JUNE 30, 2005'' in heading.

Pub. L. 109–14, § 7(e)(1), substituted ''JUNE 30, 2005'' for ''MAY 31, 2005'' in heading.

Subsec. (c)(2)(A)(vii). Pub. L. 109–40, § 7(e)(2), substituted ''$50,146,668'' for ''$49,546,681'' and ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(e)(2), substituted ''$49,546,681'' for ''$48,546,727'' and ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(e)(2), substituted ''$48,546,727'' for ''$47,946,667'' and ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(e)(2), substituted ''$47,946,667'' for ''$48,346,668'' and ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(e)(2), substituted ''$48,346,668'' for ''$41,813,334'' and ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (c)(2)(B)(vii). Pub. L. 109–40, § 7(e)(3), substituted ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(e)(3), substituted ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(e)(3), substituted ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(e)(3), substituted ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(e)(3), substituted ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (d)(2). Pub. L. 109–40, § 7(f)(1), substituted ''JULY 30, 2005'' for ''JULY 27, 2005'' in heading.

Pub. L. 109–37, § 7(f)(1), substituted ''JULY 27, 2005'' for ''JULY 21, 2005'' in heading.

Pub. L. 109–35, § 7(f)(1), substituted ''JULY 21, 2005'' for ''JULY 19, 2005'' in heading.

Pub. L. 109–20, § 7(f)(1), substituted ''JULY 19, 2005'' for ''JUNE 30, 2005'' in heading.

Pub. L. 109–14, § 7(f)(1), substituted ''JUNE 30, 2005'' for ''MAY 31, 2005'' in heading.

Subsec. (d)(2)(A)(vii). Pub. L. 109–40, § 7(f)(2), substituted ''$39,950,343'' for ''$39,554,804'' and ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(f)(2), substituted ''$39,554,804'' for ''$37,385,434'' and ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(f)(2), substituted ''$37,385,434'' for ''$36,933,334'' and ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(f)(2), substituted ''$36,933,334'' for ''$32,683,333'' and ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(f)(2), substituted ''$32,683,333'' for ''$28,266,667'' and ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (d)(2)(B)(vii). Pub. L. 109–40, § 7(f)(3), substituted ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(f)(3), substituted ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(f)(3), substituted ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(f)(3), substituted ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(f)(3), substituted ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (d)(2)(C). Pub. L. 109–40, § 7(f)(4), substituted ''July 30, 2005'' for ''July 27, 2005'' in introductory provisions.

Pub. L. 109–37, § 7(f)(4), substituted ''July 27, 2005'' for ''July 21, 2005'' in introductory provisions.

Pub. L. 109–35, § 7(f)(4), substituted ''July 21, 2005'' for ''July 19, 2005'' in introductory provisions.

Pub. L. 109–20, § 7(f)(4), substituted ''July 19, 2005'' for ''June 30, 2005'' in introductory provisions.

Pub. L. 109–14, § 7(f)(4), substituted ''June 30, 2005'' for ''May 31, 2005'' in introductory provisions.

Subsec. (e)(2). Pub. L. 109–40, § 7(h)(1), substituted ''JULY 30, 2005'' for ''JULY 27, 2005'' in heading.

Pub. L. 109–37, § 7(h)(1), substituted ''JULY 27, 2005'' for ''JULY 21, 2005'' in heading.

Pub. L. 109–35, § 7(h)(1), substituted ''JULY 21, 2005'' for ''JULY 19, 2005'' in heading.

Pub. L. 109–20, § 7(h)(1), substituted ''JULY 19, 2005'' for ''JUNE 30, 2005'' in heading.

Pub. L. 109–14, § 7(h)(1), substituted ''JUNE 30, 2005'' for ''MAY 31, 2005'' in heading.

Subsec. (e)(2)(A). Pub. L. 109–40, § 7(h)(2), substituted ''$4,180,822'' for ''$4,131,508'' and ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(h)(2), substituted ''$4,131,508'' for ''$4,060,000'' and ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(h)(2), substituted ''$4,060,000'' for ''$4,000,000'' and ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(h)(2), substituted ''$4,000,000'' for ''$3,700,000'' and ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(h)(2), substituted ''$3,700,000'' for ''$3,200,000'' and ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (e)(2)(B). Pub. L. 109–40, § 7(h)(3), substituted ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(h)(3), substituted ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(h)(3), substituted ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(h)(3), substituted ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(h)(3), substituted ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (e)(2)(C)(i), (iii). Pub. L. 109–40, § 7(h)(4), substituted ''July 30, 2005'' for ''July 27, 2005'' in introductory provisions of cl. (i) and in cl. (iii).

Pub. L. 109–37, § 7(h)(4), substituted ''July 27, 2005'' for ''July 21, 2005'' in introductory provisions of cl. (i) and in cl. (iii).

Pub. L. 109–35, § 7(h)(4), substituted ''July 21, 2005'' for ''July 19, 2005'' in introductory provisions of cl. (i) and in cl. (iii).

Pub. L. 109–20, § 7(h)(4), substituted ''July 19, 2005'' for ''June 30, 2005'' in introductory provisions of cl. (i) and in cl. (iii).

Pub. L. 109–14, § 7(h)(4), substituted ''June 30, 2005'' for ''May 31, 2005'' in introductory provisions of cl. (i) and in cl. (iii).

Subsec. (f)(2). Pub. L. 109–42, § 5(a)(1), substituted ''AUGUST 14'' for ''JULY 30'' in heading.

Pub. L. 109–40, § 7(j)(1), substituted ''JULY 30, 2005'' for ''JULY 27, 2005'' in heading.

Pub. L. 109–37, § 7(j)(1), substituted ''JULY 27, 2005'' for ''JULY 21, 2005'' in heading.

Pub. L. 109–35, § 7(j)(1), substituted ''JULY 21, 2005'' for ''JULY 19, 2005'' in heading.

Pub. L. 109–20, § 7(j)(1), substituted ''JULY 19, 2005'' for ''JUNE 30, 2005'' in heading.

Pub. L. 109–14, § 7(j)(1), substituted ''JUNE 30, 2005'' for ''MAY 31, 2005'' in heading.

Subsec. (f)(2)(A)(vii). Pub. L. 109–42, § 5(a)(2), substituted ''$57,650,686'' for ''$54,350,686'' and ''August 14'' for ''July 30''.

Pub. L. 109–40, § 7(j)(2), substituted ''$54,350,686'' for ''$53,709,604'' and ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(j)(2), substituted ''$53,709,604'' for ''$52,780,000'' and ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(j)(2), substituted ''$52,780,000'' for ''$52,000,000'' and ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(j)(2), substituted ''$52,000,000'' for ''$48,100,000'' and ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(j)(2), substituted ''$48,100,000'' for ''$41,600,000'' and ''June 30, 2005'' for ''May 31, 2005''.

Subsec. (f)(2)(B)(vii). Pub. L. 109–42, § 5(a)(3), substituted ''August 14'' for ''July 30''.

Pub. L. 109–40, § 7(j)(3), substituted ''July 30, 2005'' for ''July 27, 2005''.

Pub. L. 109–37, § 7(j)(3), substituted ''July 27, 2005'' for ''July 21, 2005''.

Pub. L. 109–35, § 7(j)(3), substituted ''July 21, 2005'' for ''July 19, 2005''.

Pub. L. 109–20, § 7(j)(3), substituted ''July 19, 2005'' for ''June 30, 2005''.

Pub. L. 109–14, § 7(j)(3), substituted ''June 30, 2005'' for ''May 31, 2005''.

2004—Subsec. (a)(2). Pub. L. 108–310, § 8(c)(1), inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''THROUGH 2004'' in heading.

Pub. L. 108–280, § 7(c)(1), struck out ''2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31,'' before ''2004'' in heading.

Pub. L. 108–263, § 7(c)(1), substituted ''JULY 31, 2004'' for ''JUNE 30, 2004'' in heading.

Pub. L. 108–224, § 7(c)(1), substituted ''JUNE 30, 2004'' for ''APRIL 30, 2004'' in heading.

Pub. L. 108–202, § 9(c)(1), substituted ''APRIL 30, 2004'' for ''FEBRUARY 29, 2004'' in heading.

Subsec. (a)(2)(A)(vi). Pub. L. 108–280, § 7(c)(2), added cl. (vi) and struck out former cl. (vi) which read: ''$2,544,233,267 for the period of October 1, 2003, through July 31, 2004.''

Pub. L. 108–263, § 7(c)(2), substituted ''$2,544,233,267'' for ''$2,289,809,940'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, § 7(c)(2), substituted ''$2,289,809,940'' for ''$1,780,963,287'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, § 9(c)(2), substituted ''$1,780,963,287'' for ''$1,292,948,344'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (a)(2)(A)(vii). Pub. L. 108–310, § 8(c)(2)–(4), added cl. (vii).

Subsec. (a)(2)(B)(vi). Pub. L. 108–280, § 7(c)(3), added cl. (vi) and struck out former cl. (vi) which read: ''$636,058,317 for the period of October 1, 2003, through July 31, 2004.''

Pub. L. 108–263, § 7(c)(3), substituted ''$636,058,317'' for ''$572,452,485'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, § 7(c)(3), substituted ''$572,452,485'' for ''$445,240,822'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, § 9(c)(3), substituted ''$445,240,822'' for ''$323,459,169'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (a)(2)(B)(vii). Pub. L. 108–310, § 8(c)(2), (3), (5), added cl. (vii).

Subsec. (a)(2)(C). Pub. L. 108–310, § 8(c)(6), substituted ''2005 (other than for the period of October 1, 2004, through May 31, 2005)'' for ''2003'' in introductory provisions.

Pub. L. 108–280, § 7(c)(4), substituted ''each of fiscal years 1999 through 2003'' for ''a fiscal year (other than for the period of October 1, 2003, through July 31, 2004)'' in introductory provisions.

Pub. L. 108–263, § 7(c)(4), substituted ''July 31, 2004'' for ''June 30, 2004'' in introductory provisions.

Pub. L. 108–224, § 7(c)(4), substituted ''June 30, 2004'' for ''April 30, 2004'' in introductory provisions.

Pub. L. 108–202, § 9(c)(4), substituted ''April 30, 2004'' for ''February 29, 2004'' in introductory provisions.

Subsec. (b)(2). Pub. L. 108–310, § 8(e)(1), inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''THROUGH 2004'' in heading.

Pub. L. 108–280, § 7(e)(1), struck out ''2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31,'' before ''2004'' in heading.

Pub. L. 108–263, § 7(e)(1), substituted ''JULY 31, 2004'' for ''JUNE 30, 2004'' in heading.

Pub. L. 108–224, § 7(e)(1), substituted ''JUNE 30, 2004'' for ''APRIL 30, 2004'' in heading.

Pub. L. 108–202, § 9(e)(1), substituted ''APRIL 30, 2004'' for ''FEBRUARY 29, 2004'' in heading.

Subsec. (b)(2)(A)(vi). Pub. L. 108–280, § 7(e)(2), added cl. (vi) and struck out former cl. (vi) which read: ''$2,079,325,834 for the period of October 1, 2003, through July 31, 2004.''

Pub. L. 108–263, § 7(e)(2), substituted ''$2,079,325,834'' for ''$1,871,393,250'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, § 7(e)(2), substituted ''$1,871,393,250'' for ''$1,819,410,104'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, § 9(e)(2), substituted ''$1,819,410,104'' for ''$1,022,503,342'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (b)(2)(A)(vii). Pub. L. 108–310, § 8(e)(2)–(4), added cl. (vii).

Subsec. (b)(2)(B)(vi). Pub. L. 108–280, § 7(e)(3), added cl. (vi) and struck out former cl. (vi) which read: ''$519,831,458 for the period of October 1, 2003, through July 31, 2004.''

Pub. L. 108–263, § 7(e)(3), substituted ''$519,831,458'' for ''$467,848,313'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, § 7(e)(3), substituted ''$467,848,313'' for ''$363,882,021'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, § 9(e)(3), substituted ''$363,882,021'' for ''$255,801,669'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (b)(2)(B)(vii). Pub. L. 108–310, § 8(e)(2), (3), (5), added cl. (vii).

Subsec. (c)(2). Pub. L. 108–310, § 8(f)(1), inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''THROUGH 2004'' in heading. See Codification note above.

Pub. L. 108–280, § 7(f)(1), struck out ''2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31,'' before ''2004'' in heading.

Pub. L. 108–263, § 7(f)(1), substituted ''JULY 31, 2004'' for ''JUNE 30, 2004'' in heading.

Pub. L. 108–224, § 7(f)(1), substituted ''JUNE 30, 2004'' for ''APRIL 30, 2004'' in heading.

Pub. L. 108–202, § 9(f)(1), substituted ''APRIL 30, 2004'' for ''FEBRUARY 29, 2004'' in heading.

Subsec. (c)(2)(A)(vi). Pub. L. 108–280, § 7(f)(2), added cl. (vi) and struck out former cl. (vi) which read: ''$48,545,217 for the period of October 1, 2003, through July 31, 2004.''

Pub. L. 108–263, § 7(f)(2), substituted ''$48,545,217'' for ''$43,690,695'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, § 7(f)(2), substituted ''$43,690,695'' for ''$33,981,652'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, § 9(f)(2), substituted ''$33,981,652'' for ''$24,636,667'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (c)(2)(A)(vii). Pub. L. 108–310, § 8(f)(2)–(4), added cl. (vii). See Codification note above.

Subsec. (c)(2)(B)(vi). Pub. L. 108–280, § 7(f)(3), added cl. (vi) and struck out former cl. (vi) which read: ''$11,929,200 for the period of October 1, 2003, through July 31, 2004.''

Pub. L. 108–263, §7(f)(3), substituted ''$11,929,200'' for ''$10,736,280'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, §7(f)(3), substituted ''$10,736,280'' for ''$8,350,440'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, §9(f)(3), substituted ''$8,350,440'' for ''$6,100,000'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (c)(2)(B)(vii). Pub. L. 108–310, §8(f)(2), (3), (5), added cl. (vii). See Codification note above.

Subsec. (c)(2)(C). Pub. L. 108–310, §8(f)(6), inserted ''or any portion of a fiscal year'' after ''for a fiscal year'' in introductory provisions. See Codification note above.

Pub. L. 108–280, §7(f)(4), struck out ''or any portion of a fiscal year'' after ''for a fiscal year'' in introductory provisions.

Subsec. (d)(2). Pub. L. 108–310, §8(g)(1), inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''THROUGH 2004'' in heading.

Pub. L. 108–280, §7(g)(1), struck out ''2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31,'' before ''2004'' in heading.

Pub. L. 108–263, §7(g)(1), substituted ''JULY 31, 2004'' for ''JUNE 30, 2004'' in heading.

Pub. L. 108–224, §7(g)(1), substituted ''JUNE 30, 2004'' for ''APRIL 30, 2004'' in heading.

Pub. L. 108–202, §9(g)(1), substituted ''APRIL 30, 2004'' for ''FEBRUARY 29, 2004'' in heading.

Subsec. (d)(2)(A)(vi). Pub. L. 108–280, §7(g)(2), added cl. (vi) and struck out former cl. (vi) which read: ''$34,959,183 for the period of October 1, 2003, through July 31, 2004.''

Pub. L. 108–263, §7(g)(2), substituted ''$34,959,183'' for ''$31,463,265'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, §7(g)(2), substituted ''$31,463,265'' for ''$24,471,428'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, §9(g)(2), substituted ''$24,471,428'' for ''$16,536,667'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (d)(2)(A)(vii). Pub. L. 108–310, §8(g)(2)–(4), added cl. (vii).

Subsec. (d)(2)(B)(vi). Pub. L. 108–280, §7(g)(3), added cl. (vi) and struck out former cl. (vi) which read: ''$8,946,900 for the period of October 1, 2003, through July 31, 2004.''

Pub. L. 108–263, §7(g)(3), substituted ''$8,946,900'' for ''$8,052,210'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, §7(g)(3), substituted ''$8,052,210'' for ''$6,262,830'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, §9(g)(3), substituted ''$6,262,830'' for ''$4,095,000'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (d)(2)(B)(vii). Pub. L. 108–310, §8(g)(2), (3), (5), added cl. (vii).

Subsec. (d)(2)(C). Pub. L. 108–310, §8(g)(6), inserted ''(other than for the period of October 1, 2004, through May 31, 2005)'' after ''a fiscal year'' in introductory provisions.

Pub. L. 108–280, §7(g)(4), struck out ''(other than for the period of October 1, 2003, through July 31, 2004)'' after ''a fiscal year''.

Pub. L. 108–263, §7(g)(4), substituted ''July 31, 2004'' for ''June 30, 2004'' in introductory provisions.

Pub. L. 108–224, §7(g)(4), substituted ''June 30, 2004'' for ''April 30, 2004'' in introductory provisions.

Pub. L. 108–202, §9(g)(4), substituted ''April 30, 2004'' for ''February 29, 2004'' in introductory provisions.

Subsec. (e)(2). Pub. L. 108–310, §8(i)(1), inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''2004'' in heading.

Pub. L. 108–280, §7(i)(1), struck out ''2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31,'' before ''2004'' in heading.

Pub. L. 108–263, §7(i)(1), substituted ''JULY 31, 2004'' for ''JUNE 30, 2004'' in heading.

Pub. L. 108–224, §7(i)(1), substituted ''JUNE 30, 2004'' for ''APRIL 30, 2004'' in heading.

Pub. L. 108–202, §9(i)(1), substituted ''APRIL 30, 2004'' for ''FEBRUARY 29, 2004'' in heading.

Subsec. (e)(2)(A). Pub. L. 108–310, §8(i)(2), inserted ''and $3,200,000 for the period of October 1, 2004, through May 31, 2005'' after ''2004''.

Pub. L. 108–280, §7(i)(2), struck out ''2003 and $3,976,400 for the period of October 1, 2003, through July 31,'' before ''2004''.

Pub. L. 108–263, §7(i)(2), substituted ''$3,976,400'' for ''$3,578,760'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, §7(i)(2), substituted ''$3,578,760'' for ''$2,783,480'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, §9(i)(2), substituted ''$2,783,480'' for ''$2,020,833'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (e)(2)(B). Pub. L. 108–310, §8(i)(3), inserted ''and $800,000 for the period of October 1, 2004, through May 31, 2005'' after ''2004''.

Pub. L. 108–280, §7(i)(3), struck out ''2003 and $994,100 for the period of October 1, 2003, through July 31,'' before ''2004''.

Pub. L. 108–263, §7(i)(3), substituted ''$994,100'' for ''$894,690'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, §7(i)(3), substituted ''$894,690'' for ''$695,870'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, §9(i)(3), substituted ''$695,870'' for ''$505,833'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (e)(2)(C)(i), (iii). Pub. L. 108–310, §8(i)(4), inserted ''(other than for the period of October 1, 2004, through May 31, 2005)'' after ''fiscal year''.

Pub. L. 108–280, §7(i)(4), struck out ''(other than for the period of October 1, 2003, through July 31, 2004)'' after ''fiscal year''.

Pub. L. 108–263, §7(i)(4), substituted ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, §7(i)(4), substituted ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, §9(i)(4), substituted ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (f)(2). Pub. L. 108–310, §8(k)(1), inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''2004'' in heading.

Pub. L. 108–280, §7(k)(1), struck out ''2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31,'' before ''2004'' in heading.

Pub. L. 108–263, §7(k)(1), substituted ''JULY 31, 2004'' for ''JUNE 30, 2004'' in heading.

Pub. L. 108–224, §7(k)(1), substituted ''JUNE 30, 2004'' for ''APRIL 30, 2004'' in heading.

Pub. L. 108–202, §9(k)(1), substituted ''APRIL 30, 2004'' for ''FEBRUARY 29, 2004'' in heading.

Subsec. (f)(2)(A)(vi). Pub. L. 108–280, §7(k)(2), added cl. (vi) and struck out former cl. (vi) which read: ''$50,036,366 for the period of October, 1, 2003, through July 31, 2004.''

Pub. L. 108–263, §7(k)(2), substituted ''$50,036,366'' for ''$45,032,730'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, §7(k)(2), substituted ''$45,032,730'' for ''$35,025,457'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, §9(k)(2), substituted ''$35,025,457'' for ''$24,585,834'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (f)(2)(A)(vii). Pub. L. 108–310, §8(k)(2)–(4), added cl. (vii).

Subsec. (f)(2)(B)(vi). Pub. L. 108–280, §7(k)(3), added cl. (vi) and struck out former cl. (vi) which read: ''$12,509,093 for the period of October 1, 2003, through July 31, 2004.''

Pub. L. 108–263, §7(k)(3), substituted ''$12,509,093'' for ''$11,258,183'' and ''July 31, 2004'' for ''June 30, 2004''.

Pub. L. 108–224, §7(k)(3), substituted ''$11,258,183'' for ''$8,756,364'' and ''June 30, 2004'' for ''April 30, 2004''.

Pub. L. 108–202, §9(k)(3), substituted ''$8,756,364'' for ''$6,150,833'' and ''April 30, 2004'' for ''February 29, 2004''.

Subsec. (f)(2)(B)(vii). Pub. L. 108–310, §8(k)(2), (3), (5), added cl. (vii).

2003—Subsec. (a)(2). Pub. L. 108–88, §8(c)(1), inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004'' after ''2003'' in heading.

Subsec. (a)(2)(A)(vi). Pub. L. 108–88, §8(c)(2)–(4), added cl. (vi).

Subsec. (a)(2)(B)(vi). Pub. L. 108–88, §8(c)(2), (3), (5), added cl. (vi).

Subsec. (a)(2)(C). Pub. L. 108–88, §8(c)(6), inserted ''(other than for the period of October 1, 2003, through February 29, 2004)'' after ''a fiscal year'' in introductory provisions.

Subsec. (b)(2). Pub. L. 108–88, §8(e)(1), inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004'' after ''2003'' in heading.

Subsec. (b)(2)(A)(vi). Pub. L. 108–88, § 8(e)(2)–(4), added cl. (vi).

Subsec. (b)(2)(B)(vi). Pub. L. 108–88, § 8(e)(2), (3), (5), added cl. (vi).

Subsec. (c)(2). Pub. L. 108–88, § 8(f), which directed the amendment of section 5338(c)(2) by inserting ''AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004'' after ''2003'' in heading, by adding cl. (vi) to subpars. (A) and (B), and by inserting ''or any portion of a fiscal year'' after ''fiscal year'' in introductory provisions of subpar. (C), without specifying that title 49 of the United States Code was to be amended, was executed by making the amendments to this section, to reflect the probable intent of Congress.

Subsec. (d)(2). Pub. L. 108–88, § 8(g)(1), inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004'' after ''2003'' in heading.

Subsec. (d)(2)(A)(vi). Pub. L. 108–88, § 8(g)(2)–(4), added cl. (vi).

Subsec. (d)(2)(B)(vi). Pub. L. 108–88, § 8(g)(2), (3), (5), added cl. (vi).

Subsec. (d)(2)(C). Pub. L. 108–88, § 8(g)(6), inserted ''(other than for the period of October 1, 2003, through February 29, 2004)'' after ''a fiscal year'' in introductory provisions.

Subsec. (e)(2). Pub. L. 108–88, § 8(i)(1), inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004'' after ''2003'' in heading.

Subsec. (e)(2)(A). Pub. L. 108–88, § 8(i)(2), inserted ''and $2,020,833 for the period of October 1, 2003, through February 29, 2004'' after ''2003''.

Subsec. (e)(2)(B). Pub. L. 108–88, § 8(i)(3), inserted ''and $505,833 for the period of October 1, 2003, through February 29, 2004'' after ''2003''.

Subsec. (e)(2)(C)(i), (iii). Pub. L. 108–88, § 8(i)(4), inserted ''(other than for the period of October 1, 2003, through February 29, 2004)'' after ''fiscal year''.

Subsec. (f)(2). Pub. L. 108–88, § 8(k)(1), inserted ''AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004'' after ''2003'' in heading.

Subsec. (f)(2)(A)(vi). Pub. L. 108–88, § 8(k)(2)–(4), added cl. (vi).

Subsec. (f)(2)(B)(vi). Pub. L. 108–88, § 8(k)(2), (3), (5), added cl. (vi).

1998—Pub. L. 105–178, § 3029(a), reenacted section catchline without change and amended text generally, substituting provisions relating to authorizations for Federal transit programs for fiscal years 1998 to 2003 for provisions relating to authorizations for Federal transit programs for fiscal years ending Sept. 30, 1993 to 1997 and for period from Oct. 1, 1997 to Mar. 31, 1998.

Subsec. (c)(2)(A). Pub. L. 105–178, § 3029(c)(1)–(5), as added by Pub. L. 105–206, substituted ''$42,200,000'' for ''$43,200,000'', ''$48,400,000'' for ''$46,400,000'', ''$50,200,000'' for ''$51,200,000'', ''$53,800,000'' for ''$52,800,000'', and ''$58,600,000'' for ''$57,600,000'' in cls. (i) to (v), respectively.

Subsec. (d)(2)(C)(iii). Pub. L. 105–178, § 3029(c)(6), as added by Pub. L. 105–206, inserted '', including not more than $1,000,000 shall be available to carry out section 5315(a)(16)'' before semicolon.

Subsec. (e)(1). Pub. L. 105–178, § 3029(c)(7)(A), (B), as added by Pub. L. 105–206, substituted ''Subject to paragraph (2)(C), there are'' for ''There are'' and ''5505'' for ''5317(b)''.

Subsec. (e)(2)(A). Pub. L. 105–178, § 3029(c)(7)(A), (C)(i), as added by Pub. L. 105–206, substituted ''Subject to subparagraph (C), there shall'' for ''There shall'' and ''5505'' for ''5317(b)''.

Subsec. (e)(2)(B). Pub. L. 105–178, § 3029(c)(7)(A), (C)(ii), as added by Pub. L. 105–206, substituted ''Subject to subparagraph (C), in addition'' for ''In addition'' and ''5505'' for ''5317(b)''.

Subsec. (e)(2)(C). Pub. L. 105–178, § 3029(c)(7)(C)(iii), as added by Pub. L. 105–206, added subpar. (C).

Subsec. (e)(3). Pub. L. 105–178, § 3029(c)(7)(D), as added by Pub. L. 105–206, added par. (3).

Subsec. (g)(2). Pub. L. 105–178, § 3029(c)(8), as added by Pub. L. 105–206, substituted ''(c)(1), (c)(2)(B), (d)(1), (d)(2)(B), (e)(1), (e)(2)(B), (f)(1), (f)(2)(B),'' for ''(c)(2)(B), (d)(2)(B), (e)(2)(B), (f)(2)(B),''.

Subsec. (h). Pub. L. 105–178, § 3029(c)(9), as added by Pub. L. 105–206, inserted ''under the Transportation Discretionary Spending Guarantee for the Mass Transit Category'' after ''subsections (a) through (f)'' in introductory provisions.

Subsec. (h)(5)(A) to (E). Pub. L. 105–178, § 3029(c)(10), as added by Pub. L. 105–206, added subpars. (A) to (E) and struck out former subpars. (A) to (E) which read as follows:

''(A) for fiscal year 1999, $600,000,000;

''(B) for fiscal year 2000, $610,000,000;

''(C) for fiscal year 2001, $620,000,000;

''(D) for fiscal year 2002, $630,000,000; and

''(E) for fiscal year 2003, $630,000,000;''.

1997—Subsec. (a)(1)(F). Pub. L. 102–240, § 3049(c)(1)(A), as added by Pub. L. 105–130, added subpar. (F).

Subsec. (a)(2)(F). Pub. L. 102–240, § 3049(c)(1)(B), as added by Pub. L. 105–130, added subpar. (F).

Subsec. (b)(1)(F). Pub. L. 102–240, § 3049(c)(2), as added by Pub. L. 105–130, added subpar. (F).

Subsec. (c). Pub. L. 102–240, § 3049(c)(3), as added by Pub. L. 105–130, inserted ''and not more than $1,500,000 for the period of October 1, 1997, through March 31, 1998,'' after ''1997,''.

Subsec. (e). Pub. L. 102–240, § 3049(c)(4), as added by Pub. L. 105–130, inserted ''and not more than $3,000,000 is available from the Fund (except the Account) for the Secretary for the period of October 1, 1997, through March 31, 1998,'' after ''1997,''.

Subsec. (h)(3). Pub. L. 102–240, § 3049(c)(5), as added by Pub. L. 105–130, inserted before period at end ''and $3,000,000 is available for section 5317 for the period of October 1, 1997, through March 31, 1998''.

Subsec. (j)(5)(D). Pub. L. 102–240, § 3049(c)(6), as added by Pub. L. 105–130, added subpar. (D).

Subsec. (k). Pub. L. 102–240, § 3049(c)(7), as added by Pub. L. 105–130, substituted ''(e), or (m) of this section'' for ''or (e) of this section''.

Subsec. (m). Pub. L. 102–240, § 3049(c)(8), as added by Pub. L. 105–130, added subsec. (m).

1996—Subsec. (g)(2). Pub. L. 104–287 substituted ''section 5311(b)(2)'' for ''section 5308(b)(2)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

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.

ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS

Pub. L. 109–59, title III, § 3046, Aug. 10, 2005, 119 Stat. 1706, as amended by Pub. L. 110–244, title II, § 201(*o*)(6), June 6, 2008, 122 Stat. 1615; Pub. L. 111–147, title IV, § 437(f), Mar. 18, 2010, 124 Stat. 93; Pub. L. 111–322, title II, § 2307(f), Dec. 22, 2010, 124 Stat. 3530, provided that:

''(a) IN GENERAL.—Amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title shall be allocated by the Secretary [of Transportation] as follows:

''(1) PUBLIC TRANSPORTATION NATIONAL SECURITY STUDY.—

''(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [Aug. 10, 2005], the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study and evaluation of the value major public transportation systems in the United States serving the 38 urbanized areas that have a population of more

than 1,000,000 individuals provide to the Nation's security and the ability of such systems to accommodate the evacuation, egress or ingress of people to or from critical locations in times of emergency.

''(B) ALTERNATIVE ROUTES.—For each system described in subparagraph (A) the study shall identify—

''(i) potential alternative routes for evacuation using other transportation modes such as highway, air, marine, and pedestrian activities; and

''(ii) transit routes that, if disrupted, do not have sufficient transit alternatives available.

''(C) REPORT.—Not later than 24 months after the date of entry into the agreement, the Academy shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a final report on the results of the study and evaluation, together with such recommendations as the Academy considers appropriate.

''(D) FUNDING.—For each of fiscal year 2006 and 2007 $250,000 shall be available to carry out this paragraph.

''(2) CENTER FOR TRANSIT-ORIENTED DEVELOPMENT.—For each of fiscal years 2006 through 2009, not less than $1,000,000 shall be made available by the Secretary for establishment and operation of the Center for Transit-Oriented Development—

''(A) to develop standards and definitions for transit-oriented development adjacent to public transportation facilities;

''(B) to develop system planning guidance, performance criteria, and modeling techniques for metropolitan planning agencies and public transportation agencies to maximize ridership through land use planning and adjacent development; and

''(C) to provide research support and technical assistance to public transportation agencies, metropolitan planning agencies, and other persons regarding transit-oriented development.

''(3) TRANSPORTATION EQUITY RESEARCH PROGRAM.—For each of fiscal years 2006 through 2009, not less than $1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the impacts that transportation planning, investment, and operations have on low-income and minority populations that are transit dependent. Such activities shall include the development of strategies to advance economic and community development in low-income and minority communities and the development of training programs that promote the employment of low-income and minority community residents on Federal-aid transportation projects constructed in their communities.

''(4) COGNITIVE IMPAIRMENT STUDY.—For fiscal year 2006, $1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the capacity and resources of Oregon public transportation systems to address the needs, barriers, and desires for travel of people with cognitive impairments.

''(5) TRANSIT CAREER LADDER TRAINING PROGRAM.—For each of fiscal years 2006 through 2009, not less than $1,000,000 shall be available for a nationwide career ladder job training partnership program for public transportation employees to respond to technological changes in the public transportation industry, especially in the area of maintenance. Such program shall be carried out by the Secretary through a contract with a national nonprofit organization with a demonstrated capacity to develop and provide such programs.

''(6) PILOT PROGRAM FOR REMOTE INFRARED AUDIBLE SIGNS.—

''(A) IN GENERAL.—For each of fiscal years 2006 through 2009, not less than $500,000 shall be made available by the Secretary to carry out a pilot program to determine the benefits of remote infrared audible signage technology for provision of wayfinding and information to people who are visually, cognitively, or learning disabled.

''(B) REPORT.—

''(i) IN GENERAL.—Not later than September 30, 2009, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program carried out under this section.

''(ii) CONTENTS.—The report—

''(I) shall include—

''(aa) an evaluation of the effect of the pilot program on multimodal accessibility in public transportation;

''(bb) an evaluation of the effect of the program on operators of public transportation and their passengers;

''(cc) an evaluation of the effect of making public transportation accessible to people with visual, cognitive, and learning disabilities on ridership of public transportation and use of paratransit; and

''(dd) an evaluation of the effect of the program on the education, community integration, work life, and general quality of life of the targeted populations.

''(7) HYDROGEN FUEL CELL SHUTTLE DEPLOYMENT DEMONSTRATION PROJECT.—To demonstrate the utility of hydrogen fueled vehicles in daily shuttle service, $800,000 in each of fiscal years 2006 and 2007 shall be provided for hydrogen fueled employee shuttle vans, related equipment, operations, public education and outreach to the DaVinci [probably should be ''Da Vinci''] Center in Allentown, Pennsylvania.

''(8) WISCONSIN SUPPLEMENTAL TRANSPORTATION RURAL ASSISTANCE PROGRAM (STRAP).—

''(A) IN GENERAL.—For capital projects, operations, purchase or lease of vehicles, and integration, planning and coordination of public transportation services in the State of Wisconsin that will supplement and expand existing rural and special public transportation services in that State, $2,000,000 in each of fiscal years 2006, 2007, 2008, and 2009 shall be provided to the State of Wisconsin Department of Transportation.

''(B) PURPOSE.—Funds received under this program may be used to supplement public transportation programs for rural populations for activities authorized under sections 5310, 5311, and 5316 of title 49, United States Code. Funds made available under this program are subject to the requirements of section 5311 of title 49, United States Code, except that funds may be made available for up to 80 percent of net operating costs. In awarding grants made available under this program, the State shall consider—

''(i) rural population in the area to be served by the applicant;

''(ii) extent to which the applicant demonstrates coordination of existing transportation services or proposed public transportation services;

''(iii) need for additional services in the area being serviced by the applicant and the extent to which the proposed services will address those needs and provide accessibility for non-ambulatory recipients;

''(iv) extent to which the applicant demonstrates an innovative approach that is responsive to the identified service needs of the rural population; and

''(v) extent to which the applicant demonstrates that the communities being served have been consulted in the planning process.

''(9) HUMAN SERVICES TRANSPORTATION COORDINATION.—

''(A) IN GENERAL.—For the management of a program to improve and enhance the coordination of Federal resources for human services transportation with those of the Department of Transpor-

tation, $1,600,000 in each of fiscal years 2006, 2007, 2008, and 2009 shall be provided to a national nonprofit organization that is competitively selected by the Secretary. Such organization shall have demonstrated expertise in issues of transportation coordination and in providing technical assistance to local transportation organizations.

''(B) ELIGIBLE ACTIVITIES.—Under this program, the organization selected by the Secretary shall—

''(i) establish an advisory panel consisting of Federal, State, and local officials and organizations;

''(ii) prepare an inventory of human service transportation agencies operating in the United States;

''(iii) prepare an inventory of Federal transportation spending;

''(iv) develop a program of technical assistance and training for human services transportation organizations that shall include on-site technical assistance, a resource clearinghouse, and preparation of technical manuals;

''(v) prepare an annual report for the Secretary on activities under this program and make recommendations for improving coordination.

''(10) PORTLAND, OREGON STREETCAR PROTOTYPE PURCHASE AND DEPLOYMENT.—Not less than $1,000,000 shall be made available in each of fiscal years 2006, 2007, 2008, and 2009 by the Secretary to TriMet for the purchase and deployment of a domestically manufactured streetcar.

''(11) PUBLIC TRANSPORTATION PARTICIPATION PILOT PROGRAM.—

''(A) IN GENERAL.—Of the funds allocated under this section for each of fiscal years 2006 through 2009, $1,000,000 for each fiscal year shall be made available by the Secretary to establish a pilot program to support planning and public participation activities related to public transportation projects.

''(B) ELIGIBLE ACTIVITIES.—Activities eligible to be carried out under the pilot program may include the following:

''(i) Improving data collection analysis and transportation access for all users of the public transportation systems.

''(ii) Supporting public participation through the project development phases.

''(iii) Using innovative techniques to improve the coordination of transportation alternatives.

''(iv) Enhancing the coordination of public transportation benefits and services.

''(v) Contracting with stakeholders to focus on the delivery of transportation plans and programs.

''(vi) Measuring and reporting on the annual performance of the transportation systems.

''(12) TRANSPORTATION HYBRID ELECTRIC VEHICLE AND FUEL CELL RESEARCH.—$500,000 in each of fiscal years 2006 through 2009 for a transportation hybrid electric vehicle and fuel cell research program at the University of Alabama.

''(13) TRAUMA CARE SYSTEM RESEARCH AND DEVELOPMENT.—$500,000 in each of fiscal years 2006 through 2009 for trauma care system research and development at the University of Alabama in Birmingham.

''(14) TRANSPORTATION INFRASTRUCTURE AND LOGISTICS RESEARCH.—$500,000 in each of fiscal years 2006 through 2009 for transportation infrastructure and logistics research at the University of Alabama in Huntsville.

''(15) NATIONAL BUS RAPID TRANSIT INSTITUTE.—$1,750,000 in each of fiscal years 2006 though 2009 for the National Bus Rapid Transit Institute at the University of South Florida.

''(16) APPLICATION OF INFORMATION TECHNOLOGY TO TRANSPORTATION LOGISTICS AND SECURITY.—$400,000 in each of fiscal years 2006 through 2009 for research on the application of information technology to transportation logistics and security at the Northern Kentucky University.

''(17) INTELLIGENT TRANSPORTATION SYSTEM PILOT PROJECT.—$465,000 in each of fiscal years 2006 through 2009 for an intelligent transportation system pilot project with the National Consortium on Remote Sensing in Transportation Flows at the Ohio State University.

''(18) REGIONAL PUBLIC SAFETY TRAINING CENTER.—$500,000 in each of fiscal years 2006 through 2009 for a regional public safety training center at the Lehigh-Carbon Community College.

''(19) TRANSIT SECURITY TRAINING FACILITY.—$750,000 in each of fiscal years 2006 though 2009 for a transit security training facility in Chester County, Pennsylvania.

''(20) SMALL URBAN AND RURAL TRANSIT CENTER.—$800,000 in fiscal year 2006, $800,000 in fiscal year 2007, $1,200,000 in fiscal year 2008, and $1,200,000 in fiscal year 2009 for the Small Urban and Rural Transit Center at North Dakota State University.

''(21) ADVANCED TECHNOLOGY BUS RAPID TRANSIT PROJECT.—$500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $550,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the Southeastern Connecticut Advanced Technology Bus Rapid Transit Project.

''(22) GREATER NEW HAVEN TRANSIT DISTRICT FUEL CELL-POWERED BUS RESEARCH.—$500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $550,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the Greater New Haven Transit District Fuel Cell-Powered Bus Research.

''(23) CENTER FOR ADVANCED TRANSPORTATION INITIATIVES.—$500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $540,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the Rutgers Center for Advanced Transportation Initiatives (CAIT).

''(24) INSTITUTE OF TECHNOLOGY'S TRANSPORTATION, ECONOMIC, AND LAND USE SYSTEM.—$500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $540,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the New Jersey Institute of Technology's Transportation, Economic, and Land Use System program (TELUS).

''(25) REGIONAL TRANSIT TRAINING CONSORTIUM PILOT PROGRAM.—$270,000 in fiscal year 2006, $380,000 in fiscal year 2007, $380,000 in fiscal year 2008, and $450,000 in fiscal year 2009 for the Southern California Regional Transit Training Consortium Pilot Program.

''(b) REMAINDER.—After making allocations under subsection (a), the remainder of funds made available by section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 for a fiscal year or period shall be allocated at the discretion of the Secretary to other transit research, development, demonstration and deployment projects authorized by sections 5312, 5314, and 5322 of such title.

''(c) ADDITIONAL APPROPRIATIONS.—The Secretary shall allocate amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title—

''(1) for fiscal year 2010, in amounts equal to the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), (6), and (8) through (25) of subsection (a); and

''(2) for the period beginning October 1, 2010, and ending March 4, 2011, in amounts equal to $^{155}/_{365}$ths of the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), (6), and (8) through (25) of subsection (a).

''(d) FUNDING.—If the Secretary determines that a project or activity described in subsection (a) received sufficient funds in fiscal year 2010, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under subsection (c) for the project or activity for fiscal year 2011, or any subsequent fiscal year.''

ADJUSTMENTS FOR SURFACE TRANSPORTATION EXTENSION ACT OF 1997

Pub. L. 105–178, title III, § 3041, June 9, 1998, 112 Stat. 394, provided that the Secretary of Transportation en-

sure that the total apportionments and allocations made to a designated grant recipient under this section for fiscal year 1998 be reduced by the amount apportioned to such designated recipient pursuant to section 8 of Pub. L. 105–130 (amending sections 5309, 5337, and 5338 of this title) and in making the apportionments, the Secretary adjust the amount apportioned to each urbanized area for fixed guideway modernization for fiscal year 1998 to reflect the method of apportioning funds in section 5337(a) of this title.

TRAINING AND CURRICULUM DEVELOPMENT

Pub. L. 105–178, title III, § 3015(d), as added by Pub. L. 105–206, title IX, § 9009(k)(2), July 22, 1998, 112 Stat. 857, and amended by Pub. L. 108–88, § 8(j)(3), Sept. 30, 2003, 117 Stat. 1124; Pub. L. 108–202, § 9(j)(2), Feb. 29, 2004, 118 Stat. 487; Pub. L. 108–224, § 7(j)(2), Apr. 30, 2004, 118 Stat. 636; Pub. L. 108–263, § 7(j)(2), June 30, 2004, 118 Stat. 707; Pub. L. 108–280, § 7(j)(2), July 30, 2004, 118 Stat. 884; Pub. L. 108–310, § 8(j)(3), Sept. 30, 2004, 118 Stat. 1157; Pub. L. 109–14, § 7(i)(2), May 31, 2005, 119 Stat. 332; Pub. L. 109–20, § 7(i)(2), July 1, 2005, 119 Stat. 355; Pub. L. 109–35, § 7(i)(2), July 20, 2005, 119 Stat. 388; Pub. L. 109–37, § 7(i)(2), July 22, 2005, 119 Stat. 403; Pub. L. 109–40, § 7(i)(2), July 28, 2005, 119 Stat. 419, provided that:

''(1) IN GENERAL.—Any funds made available by section 5338(e)(2)(C)(iii) of title 49, United States Code, shall be available in equal amounts for transportation research, training, and curriculum development at institutions identified in subparagraphs (E) and (F) of section 5505(j)(3) of such title.

''(2) SPECIAL RULE.—If the institutions identified in paragraph (1) are selected pursuant to [section] 5505(i)(3)(B) of such title in fiscal year 2002, 2003, or 2004 or in the period October 1, 2004, through July 30, 2005, the funds made available to carry out this subsection shall be available to those institutions to carry out the activities required pursuant to section 5505(i)(3)(B) of such title for that fiscal year.''

PROGRAMS OF FEDERAL TRANSIT ADMINISTRATION; LIMITATION ON OBLIGATIONS

Pub. L. 109–115, div. A, title I, § 140, Nov. 30, 2005, 119 Stat. 2420, which provided that the limitations on obligations for the programs of the Federal Transit Administration were not to apply to any authority under this section previously made available for obligation, or to any other authority previously made available for obligation, was from the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–447, div. H, title I, § 160, Dec. 8, 2004, 118 Stat. 3227.

Pub. L. 108–199, div. F, title I, § 160, Jan. 23, 2004, 118 Stat. 308.

Pub. L. 108–7, div. I, title III, § 309, Feb. 20, 2003, 117 Stat. 407.

Pub. L. 107–87, title III, § 309, Dec. 18, 2001, 115 Stat. 855.

Pub. L. 106–346, § 101(a) [title III, § 311], Oct. 23, 2000, 114 Stat. 1356, 1356A–27.

Pub. L. 106–69, title III, § 311, Oct. 9, 1999, 113 Stat. 1018.

Pub. L. 105–277, div. A, § 101(g) [title III, § 311], Oct. 21, 1998, 112 Stat. 2681–439, 2681–467.

Pub. L. 105–66, title III, § 311, Oct. 27, 1997, 111 Stat. 1443.

Pub. L. 104–205, title III, § 311, Sept. 30, 1996, 110 Stat. 2971.

Pub. L. 104–50, title III, § 312, Nov. 15, 1995, 109 Stat. 455.

Pub. L. 103–331, title III, § 313, Sept. 30, 1994, 108 Stat. 2490.

Pub. L. 103–122, title III, § 313, Oct. 27, 1993, 107 Stat. 1221.

Pub. L. 102–388, title III, § 313, Oct. 6, 1992, 106 Stat. 1546.

Pub. L. 102–143, title III, § 313, Oct. 28, 1991, 105 Stat. 941, as amended by Pub. L. 102–240, title III, §§ 3003(b), 3004(b), Dec. 18, 1991, 105 Stat. 2088.

Pub. L. 101–516, title III, § 313, Nov. 5, 1990, 104 Stat. 2181.

Pub. L. 101–164, title III, § 314, Nov. 21, 1989, 103 Stat. 1094.

Pub. L. 100–457, title III, § 314, Sept. 30, 1988, 102 Stat. 2148.

Pub. L. 100–202, § 101(*l*) [title III, § 314], Dec. 22, 1987, 101 Stat. 1329–358, 1329–379.

Pub. L. 99–500, § 101(*l*) [H.R. 5205, title III, § 317], Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, § 101(*l*) [H.R. 5205, title III, § 317], Oct. 30, 1986, 100 Stat. 3341–308.

Pub. L. 99–190, § 101(e) [title III, § 322], Dec. 19, 1985, 99 Stat. 1267, 1287.

## § 5339. Alternatives analysis program

(a) GRANTS AND AGREEMENTS.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities to develop alternatives analyses as defined by section 5309(a)(1).

(b) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity.

(c) AVAILABILITY OF FUNDS.—An amount made available or appropriated under section 5338(b)(2)(L) for this section shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period may be used by the Secretary for any purpose under this section.

(Added Pub. L. 108–7, div. I, title III, § 356, Feb. 20, 2003, 117 Stat. 421; amended Pub. L. 109–59, title III, § 3037(a), Aug. 10, 2005, 119 Stat. 1635.)

AMENDMENTS

2005—Pub. L. 109–59 inserted section catchline and amended text generally. Prior to amendment, text read as follows: ''Effective for funds not yet expended on the effective date of this section, the Federal share for funds under this chapter for a grantee named in section 603(14) of Public Law 97–468 shall be the same as the Federal share under 23 U.S.C. section 120(b) for Federal aid highway funds apportioned to the State in which it operates.''

## § 5340. Apportionments based on growing States and high density States formula factors

(a) DEFINITION.—In this section, the term ''State'' shall mean each of the 50 States of the United States.

(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(M), the Secretary shall apportion—

(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

(2) 50 percent to States and urbanized areas in accordance with subsection (d).

(c) GROWING STATE APPORTIONMENTS.—

(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal

to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

(A) the total land area of the State (in square miles); multiplied by

(B) 370; multiplied by

(C)(i) the population of the State in urbanized areas; divided by

(ii) the total population of the State.

(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

(Added Pub. L. 109–59, title III, § 3038(a), Aug. 10, 2005, 119 Stat. 1636.)

## CHAPTER 55—INTERMODAL TRANSPORTATION

SUBCHAPTER I—GENERAL

Sec.
5501. National Intermodal Transportation System policy.
5502. Intermodal Transportation Advisory Board.
5503. Office of Intermodalism.
5504. Model intermodal transportation plans.
5505. National university transportation centers.
5506. University transportation research.

SUBCHAPTER II—TERMINALS

5561. Definition.
5562. Assistance projects.
5563. Conversion of certain rail passenger terminals.
5564. Interim preservation of certain rail passenger terminals.
5565. Encouraging the development of plans for converting certain rail passenger terminals.
5566. Records and audits.
5567. Preference for preserving buildings of historic or architectural significance.
5568. Authorization of appropriations.

AMENDMENTS

2005—Pub. L. 109–59, title V, §§ 5401(c), 5402(c), Aug. 10, 2005, 119 Stat. 1815, 1820, substituted ''National university transportation centers'' for ''University transportation research'' in item 5505 and ''University transportation research'' for ''Advanced vehicle technologies program'' in item 5506.

1998—Pub. L. 105–178, title V, §§ 5110(b), 5111(b), June 9, 1998, 112 Stat. 444, 445, added items 5505 and 5506.

### SUBCHAPTER I—GENERAL

#### § 5501. National Intermodal Transportation System policy

(a) GENERAL.—It is the policy of the United States Government to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the United States to compete in the global economy, and will move

individuals and property in an energy efficient way.

(b) SYSTEM CHARACTERISTICS.—(1) The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the United States' preeminent position in international commerce.

(2) The National Intermodal Transportation System shall include a National Highway System consisting of the Dwight D. Eisenhower System of Interstate and Defense Highways and those principal arterial roads that are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

(3) The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals in urban and rural areas of the United States.

(4) The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to commerce.

(5) The National Intermodal Transportation System shall give special emphasis to the contributions of the transportation sectors to increased productivity growth. Social benefits must be considered with particular attention to the external benefits of reduced air pollution, reduced traffic congestion, and other aspects of the quality of life in the United States.

(6) The National Intermodal Transportation System must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth, and accountability. Practices that resulted in the lengthy and overly costly construction of the Dwight D. Eisenhower System of Interstate and Defense Highways must be confronted and stopped.

(7) The National Intermodal Transportation System shall be adapted to ''intelligent vehicles'', ''magnetic levitation systems'', and other new technologies, wherever feasible and economical, with benefit cost estimates given special emphasis on safety considerations and techniques for cost allocation.

(8) When appropriate, the National Intermodal Transportation System will be financed, as regards Government apportionments and reimbursements, by the Highway Trust Fund. Financial assistance will be provided to State and local governments and their instrumentalities to help carry out national goals related to mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals.

(9) The National Intermodal Transportation System must be the centerpiece of a national investment commitment to create the new wealth of the United States for the 21st century.

(c) DISTRIBUTION AND POSTING.—The Secretary of Transportation shall distribute copies of the policy in subsections (a) and (b) of this section to each employee of the Department of Transportation and ensure that the policy is posted in all offices of the Department.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 848.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5501 ..... | 49:101 (note). | Dec. 18, 1991, Pub. L. 102–240, § 2, 105 Stat. 1914. |

In this section, the words ''Dwight D. Eisenhower System of Interstate and Defense Highways'' are substituted for ''National System of Interstate and Defense Highways'' because of the Act of October 15, 1990 (Public Law 101–427, 104 Stat. 927).

## § 5502. Intermodal Transportation Advisory Board

(a) ORGANIZATION.—The Intermodal Transportation Advisory Board is a board in the Office of the Secretary of Transportation.

(b) MEMBERSHIP.—The Board consists of the Secretary, who serves as chairman, and the Administrator, or the Administrator's designee, of—

(1) the Federal Highway Administration;
(2) the Federal Aviation Administration;
(3) the Maritime Administration;
(4) the Federal Railroad Administration;
(5) the Federal Transit Administration; and
(6) the Federal Motor Carrier Safety Administration.

(c) DUTIES AND POWERS.—The Board shall provide recommendations for carrying out the duties of the Secretary described in section 301(3) of this title.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 849; Pub. L. 109–59, title IV, § 4145(a), Aug. 10, 2005, 119 Stat. 1749.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5502 ..... | 49:301 (note). | Dec. 18, 1991, Pub. L. 102–240, § 5002(b), 105 Stat. 2158. |

AMENDMENTS

2005—Subsec. (b)(6). Pub. L. 109–59 added par. (6).

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided 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.

## § 5503. Office of Intermodalism

(a) ESTABLISHMENT.—There is established in the Research and Innovative Technology Administration an Office of Intermodalism.

(b) DIRECTOR.—The head of the Office is a Director who shall be appointed by the Secretary.

(c) DUTIES AND POWERS.—The Director shall carry out the duties of the Secretary described in section 301(3) of this title.

(d) RESEARCH.—The Director shall—

(1) coordinate United States Government research on intermodal transportation as provided in the plan developed under section 6009(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2177); and

(2) carry out additional research needs identified by the Director.

(e) TECHNICAL ASSISTANCE.—The Director shall provide technical assistance to States and to metropolitan planning organizations for urban areas having a population of at least 1,000,000 in collecting data related to intermodal transportation to facilitate the collection of the data by States and metropolitan planning organizations. Amounts reserved under section 5504(d) not awarded to States as grants may be used by the Director to provide technical assistance under this subsection.

(f) NATIONAL INTERMODAL SYSTEM IMPROVEMENT PLAN.—

(1) IN GENERAL.—The Director, in consultation with the advisory board established under section 5502 and other public and private transportation interests, shall develop a plan to improve the national intermodal transportation system. The plan shall include—

(A) an assessment and forecast of the national intermodal transportation system's impact on mobility, safety, energy consumption, the environment, technology, international trade, economic activity, and quality of life in the United States;

(B) an assessment of the operational and economic attributes of each passenger and freight mode of transportation and the optimal role of each mode in the national intermodal transportation system;

(C) a description of recommended intermodal and multimodal research and development projects;

(D) a description of emerging trends that have an impact on the national intermodal transportation system;

(E) recommendations for improving intermodal policy, transportation decision-making, and financing to maximize mobility and the return on investment of Federal spending on transportation;

(F) an estimate of the impact of current Federal and State transportation policy on the national intermodal transportation system; and

(G) specific near and long-term goals for the national intermodal transportation system.

(2) PROGRESS REPORTS.—The Director shall submit an initial report on the plan to improve the national intermodal transportation system 2 years after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2005, and a follow-up report 2 years after that, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The progress report shall—

(A) describe progress made toward achieving the plan's goals;

(B) describe challenges and obstacles to achieving the plan's goals;

(C) update the plan to reflect changed circumstances or new developments; and

(D) make policy and legislative recommendations the Director believes are necessary and appropriate to achieve the goals of the plan.

(3) PLAN DEVELOPMENT FUNDING.—Such sums as may be necessary from the administrative expenses of the Research and Innovative Technology Administration shall be reserved by the Secretary of Transportation each year for the purpose of completing and updating the plan to improve the national intermodal transportation plan.

(g) IMPACT MEASUREMENT METHODOLOGY; IMPACT REVIEW.—The Director and the Director of the Bureau of Transportation Statistics shall jointly—

(1) develop, in consultation with the modal administrations, and State and local planning organizations, common measures to compare transportation investment decisions across the various modes of transportation; and

(2) formulate a methodology for measuring the impact of intermodal transportation on—

(A) the environment;

(B) public health and welfare;

(C) energy consumption;

(D) the operation and efficiency of the transportation system;

(E) congestion, including congestion at the Nation's ports; and

(F) the economy and employment.

(h) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Director shall provide administrative and clerical support to the Intermodal Transportation Advisory Board.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for fiscal years 2006 through 2009 to carry out this chapter.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 850; Pub. L. 105–178, title V, § 5109(b), June 9, 1998, 112 Stat. 440; Pub. L. 108–426, § 4(c), Nov. 30, 2004, 118 Stat. 2425; Pub. L. 109–59, title IV, § 4149, Aug. 10, 2005, 119 Stat. 1750; Pub. L. 110–244, title III, § 301(k), June 6, 2008, 122 Stat. 1616.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5503 ..... | 49:301 (note). | Dec. 18, 1991, Pub. L. 102–240, § 5002(c), 105 Stat. 2158. |

REFERENCES IN TEXT

Section 6009(b) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (d)(1), is section 6009(b) of Pub. L. 102–240, which is set out as a note under section 508 of Title 23, Highways.

The date of enactment of the Motor Carrier Safety Reauthorization Act of 2005, referred to in subsec. (f)(2), is the date of enactment of title IV of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2008—Subsec. (f)(2). Pub. L. 110–244, § 301(k)(1), substituted ''Motor Carrier Safety Reauthorization Act of

2005'' for ''Surface Transportation Safety Improvement Act of 2005'' in introductory provisions.

Subsecs. (h), (i). Pub. L. 110–244, § 301(k)(2), redesignated subsec. (h), relating to authorization of appropriations, as (i) and moved such subsec. to appear in proper order.

2005—Subsec. (e). Pub. L. 109–59, § 4149(1), inserted at end ''Amounts reserved under section 5504(d) not awarded to States as grants may be used by the Director to provide technical assistance under this subsection.''

Subsecs. (f), (g). Pub. L. 109–59, § 4149(2), (3), added subsecs. (f) and (g). Former subsec. (f) redesignated (h) relating to administrative and clerical support.

Subsec. (h). Pub. L. 109–59, § 4149(3), added subsec. (h) relating to authorization of appropriations.

Pub. L. 109–59, § 4149(2), redesignated subsec. (f) as (h) relating to administrative and clerical support.

2004—Subsec. (a). Pub. L. 108–426 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The Secretary of Transportation shall establish in the Office of the Secretary an Office of Intermodalism.''

1998—Subsecs. (d) to (g). Pub. L. 105–178 redesignated subsecs. (e) to (g) as (d) to (f), respectively, and struck out heading and text of former subsec. (d). Text read as follows:

''(1) The Director shall develop, maintain, and disseminate intermodal transportation data through the Bureau of Transportation Statistics. The Director shall coordinate the collection of data for the data base with the States and metropolitan planning organizations. The data base shall include information on—

''(A) the volume of property and number of individuals carried in intermodal transportation by relevant classification;

''(B) patterns of movement of property and individuals in intermodal transportation by relevant classification by origin and destination; and

''(C) public and private investment in intermodal transportation facilities and services.

''(2) The Director shall make information from the data base available to the public.''

## § 5504. Model intermodal transportation plans

(a) GRANTS.—The Secretary of Transportation shall make grants to States to develop model State intermodal transportation plans that are consistent with the policy set forth in section 302(e) of this title. The model plans shall include systems for collecting data related to intermodal transportation.

(b) DISTRIBUTION.—The Secretary shall award grants to States under this section that represent a variety of geographic regions and transportation needs, patterns, and modes.

(c) PLAN SUBMISSION.—As a condition to a State receiving a grant under this section, the Secretary shall require that the State provide assurances that the State will submit to the Secretary a State intermodal transportation plan not later than 18 months after the date of receipt of the grant.

(d) GRANT AMOUNTS.—The Secretary shall reserve, from amounts deducted under section 104(a) of title 23, $3,000,000 to make grants under this section. The total amount that a State may receive in grants under this section may not be more than $500,000.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 850.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5504 ..... | 49:301 (note). | Dec. 18, 1991, Pub. L. 102–240, § 5003, 105 Stat. 2159. |

## § 5505. National university transportation centers

(a) IN GENERAL.—

(1) ESTABLISHMENT AND OPERATION.—The Secretary of Transportation shall make grants under this section to eligible nonprofit institutions of higher learning to establish and operate national university transportation centers.

(2) ROLE OF CENTERS.—The role of each center shall be to advance significant transportation research on critical national transportation issues and to expand the workforce of transportation professionals.

(b) APPLICABILITY OF REQUIREMENTS.—A grant received by an eligible nonprofit institution of higher learning under this section shall be available for the same purposes, and shall be subject to the same terms and conditions, as a grant made to a nonprofit institution of higher learning under section 5506.

(c) ELIGIBLE NONPROFIT INSTITUTION OF HIGHER LEARNING DEFINED.—In this section, the term ''eligible nonprofit institution of higher learning'' means each of the following:

(1) University of Alaska.

(2) Marshall University, West Virginia, on behalf of a consortium of West Virginia colleges and universities.

(3) University of Minnesota.

(4) University of Missouri, Rolla.

(5) Northwestern University.

(6) Oklahoma Transportation Center.

(7) Portland State University, in partnership with the University of Oregon, Oregon State University, and the Oregon Institute of Technology.

(8) University of Vermont.

(9) Western Transportation Institute at Montana State University.

(10) University of Wisconsin.

(d) GRANTS.—The Secretary shall make a grant under this section to each eligible nonprofit institution of higher learning in an amount[1] $2,000,000 in fiscal year 2005 and $3,500,000 in each of fiscal years 2006 through 2009 to carry out this section.

(Added and amended Pub. L. 105–178, title V, § 5110(a), (d), June 9, 1998, 112 Stat. 441; Pub. L. 105–206, title IX, § 9011(d), July 22, 1998, 112 Stat. 863; Pub. L. 109–59, title V, § 5401(a), Aug. 10, 2005, 119 Stat. 1814.)

AMENDMENTS

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to national university transportation centers for provisions relating to university transportation research.

1998—Subsec. (g)(2). Pub. L. 105–178, § 5110(d)(1), as added by Pub. L. 105–206, substituted ''section 508 of title 23, United States Code,'' for ''section 5506,''.

Subsec. (i). Pub. L. 105–178, § 5110(d)(2), as added by Pub. L. 105–206, inserted ''Subject to section 5338(e):'' before par. (1) and substituted ''institutions or groups of institutions'' for ''institutions'' wherever appearing.

Subsec. (j)(4)(B). Pub. L. 105–178, § 5110(d)(3), as added by Pub. L. 105–206, substituted ''on behalf of a consortium which may also include West Virginia University Institute of Technology, the College of West Virginia,

[1] So in original. Probably should be followed by ''of''.

and Bluefield State College'' for ''on behalf of a consortium of West Virginia colleges and universities''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

### § 5506. University transportation research

(a) IN GENERAL.—The Secretary of Transportation shall make grants under this section to nonprofit institutions of higher learning to establish and operate university transportation centers.

(b) OBJECTIVES.—Grants received under this section shall be used by nonprofit institutions of higher learning to advance significantly the state-of-the-art in transportation research and expand the workforce of transportation professionals through the following programs and activities:

(1) RESEARCH.—Basic and applied research, the products of which are judged by peers or other experts in the field of transportation to advance the body of knowledge in transportation.

(2) EDUCATION.—An education program relating to transportation that includes multidisciplinary course work and participation in research.

(3) TECHNOLOGY TRANSFER.—An ongoing program of technology transfer that makes transportation research results available to potential users in a form that can be implemented, utilized, or otherwise applied.

(c) REGIONAL, TIER I, AND TIER II CENTERS.—

(1) REGIONAL AND TIER I CENTERS.—For each of fiscal years 2005 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate—

(A) 10 regional university transportation centers; and

(B) 10 Tier I university transportation centers.

(2) TIER II CENTERS.—

(A) For each of fiscal years 2006 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate 22 Tier II university transportation centers.

(B) The Tier II centers consist of the following:

(i) University of Arkansas, Mack-Blackwell Rural Transportation Center.

(ii) University of California, Davis.

(iii) California State University, San Bernardino.

(iv) Cleveland State University, Work Zone Safety Institute.

(v) University of Connecticut.

(vi) University of Delaware in Newark.

(vii) University of Detroit Mercy (including the coalition partners of the university).

(viii) George Mason University.

(ix) Hampton University, Eastern Seaboard Intermodal Transportation Applications Center (ESITAC).

(x) Kansas State University.

(xi) Louisiana State University, LTRC-TTEC.

(xii) University of Massachusetts Amherst.

(xiii) Michigan Technological University.

(xiv) University of Nevada Las Vegas.

(xv) North Carolina State University, Center for Transportation and the Environment.

(xvi) Northwestern University.

(xvii) Ohio Higher Education Transportation Consortium University of Akron.

(xviii) University of Rhode Island.

(xix) University of Toledo.

(xx) Utah State University.

(xxi) Youngstown State University.

(xxii) University of Memphis.

(3) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

(4) LIMITATION.—A nonprofit institution of higher learning may not directly receive a grant under this section for a fiscal year for more than one university transportation center.

(d) COMPETITIVE SELECTION PROCESS.—

(1) APPLICATIONS.—In order to be eligible to receive a grant under subsection (c)(1), a nonprofit institution of higher learning shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

(2) GENERAL SELECTION CRITERIA.—Except as otherwise provided by this section, the Secretary shall select each recipient of a grant under subsection (c)(1) through a competitive process on the basis of the following:

(A) The demonstrated research and extension resources available to the recipient to carry out this section.

(B) The capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

(C) The recipient's demonstrated commitment of at least $400,000 each year in regularly budgeted institutional amounts to support ongoing transportation research and education programs.

(D) The recipient's demonstrated ability to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program.

(E) The strategic plan the recipient proposes to carry out under the grant.

(e) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

(1) COMPETITION.—Not later than March 31, 2006, and not later than March 31st of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institu-

tions of higher learning for grants to establish and operate the 10 regional university transportation centers referred to in subsection (c)(1)(A).

(2) SELECTION CRITERIA.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of—

(A) the criteria described in subsection (d)(2);

(B) the location of the center within the Federal region to be served; and

(C) whether or not the institution (or, in the case of a consortium of institutions, the lead institution) demonstrates that it has a well-established, nationally recognized program in transportation research and education, as evidenced by—

(i) not less than $2,000,000 in highway or public transportation research expenditures each year for each of the preceding 5 years;

(ii) not less than 10 graduate degrees awarded in professional fields closely related to highways and public transportation each year for each of the preceding 5 years; and

(iii) not less than 5 tenured or tenure-track faculty members who specialize on a full-time basis in professional fields closely related to highways and public transportation who, as a group, have published a total at least 50 refereed journal publications on highway or public transportation research during the preceding 5 years.

(3) GRANT RECIPIENTS.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a regional university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

(4) SPECIAL RULE FOR FISCAL YEARS 2005 AND 2006.—For fiscal years 2005 and 2006, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grants by the Secretary under this section in July 1999 to operate regional university transportation centers.

(5) AMOUNT OF GRANTS.—The Secretary shall make a grant to a nonprofit institution of higher learning to establish and operate a regional university transportation center of—

(A) $1,000,000 for fiscal year 2005;

(B) $2,000,000 for each of fiscal years 2006 through 2008; and

(C) $2,250,000 for fiscal year 2009.

(f) TIER I UNIVERSITY TRANSPORTATION CENTERS.—

(1) COMPETITION.—Not later than June 30, 2006, and not later than June 30 of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 Tier I university transportation centers referred to in subsection (c)(1)(B).

(2) SELECTION CRITERIA.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of—

(A) the criteria described in subsection (d)(2); and

(B) whether or not the institution (or, in the case of a consortium of institutions, the lead institution) can demonstrate that it has an established, recognized program in transportation research and education, as evidenced by—

(i) not less than $1,000,000 in highway or public transportation research expenditures each year for each of the preceding 5 years or not less than $6,000,000 in such expenditures during the 5 preceding years;

(ii) not less than 5 graduate degrees awarded in professional fields closely related to highways and public transportation each year for each of the preceding 5 years; and

(iii) not less than 3 tenured or tenure-track faculty members who specialize on a full-time basis in professional fields closely related to highways and public transportation who, as a group, have published a total at least 20 refereed journal publications on highway or public transportation research during the preceding 5 years.

(3) GRANT RECIPIENTS.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a Tier I university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

(4) SPECIAL RULE FOR FISCAL YEARS 2005 AND 2006.—For fiscal years 2005 and 2006, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grant awards by the Secretary under this section in May 2002 to operate university transportation centers (other than regional centers).

(5) AMOUNT OF GRANTS.—The Secretary shall make a grant of $1,000,000 for each of fiscal years 2005 through 2009 to a nonprofit institution of higher learning to establish and operate a Tier I university transportation center.

(g) TIER II UNIVERSITY TRANSPORTATION CENTERS.—

(1) SELECTION.—The Secretary shall make grants to the nonprofit institutions of higher learning to establish and operate the 22 Tier II university transportation centers referred to in subsection (c)(2)(B).

(2) AMOUNT OF GRANTS.—The Secretary shall make a grant of $500,000 for each of fiscal years 2006 through 2009 to a nonprofit institution of higher learning to establish and operate a Tier II university transportation center.

(h) SUPPORT OF NATIONAL STRATEGY FOR SURFACE TRANSPORTATION RESEARCH.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall provide assurances satisfactory to the Secretary that the research and education activities of its university transportation center will support

the national strategy for surface transportation research, as identified by—

(1) the report of the National Highway Research and Technology Partnership entitled ''Highway Research and Technology: The Need for Greater Investment'', dated April 2002; and

(2) the programs of the National Research and Technology Program of the Federal Transit Administration.

(i) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall enter into an agreement with the Secretary to ensure that the institution will maintain total expenditures from all other sources to establish and operate a university transportation center and related research activities at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

(2) SPECIAL RULE.—Nothing in paragraph (1) requires a nonprofit institution of higher learning designated as a Tier II university transportation center to maintain total expenditures as described in paragraph (1) in excess of the amount of the grant awarded to the institution.

(j) FEDERAL SHARE.—The Federal share of the costs of activities carried out using a grant made under this section shall be 50 percent of such costs. The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23.

(k) PROGRAM COORDINATION.—

(1) COORDINATION.—The Secretary shall coordinate the research, education, and technology transfer activities that grant recipients carry out under this section, disseminate the results of the research, and establish and operate a clearinghouse to disseminate the results of the research.

(2) ANNUAL REVIEW AND EVALUATION.—At least annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall review and evaluate programs of grant recipients.

(3) MANAGEMENT AND OVERSIGHT.—For each of fiscal years 2008 and 2009, the Secretary shall expend not more than 1.5 percent of amounts made available to carry out this section to carry out management and oversight of the centers receiving assistance under this section and section 5505.

(*l*) PROGRAM ADMINISTRATION.—The Secretary shall carry out this section acting through the Administrator of the Research and Innovative Technology Administration.

(m) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary for a period of 2 years after the last day of the fiscal year for which such funds are authorized.

(Added Pub. L. 105–178, title V, § 5111(a), June 9, 1998, 112 Stat. 444; amended Pub. L. 109–59, title V, § 5402(a), Aug. 10, 2005, 119 Stat. 1815; Pub. L. 110–244, title I, §§ 111(g)(3), 116, June 6, 2008, 122 Stat. 1605, 1607.)

AMENDMENTS

2008—Subsec. (c)(2)(B). Pub. L. 110–244, § 111(g)(3)(A), substituted ''Tier'' for ''tier'' in introductory provisions.

Subsec. (e)(5)(C). Pub. L. 110–244, § 116, substituted ''$2,250,000'' for ''$2,225,000''.

Subsec. (i). Pub. L. 110–244, § 111(g)(3)(B), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (k)(3). Pub. L. 110–244, § 111(g)(3)(C), substituted ''For each of fiscal years 2008 and 2009, the Secretary shall expend not more than 1.5 percent of amounts made available to carry out this section'' for ''The Secretary shall expend not more than $400,000 for each of fiscal years 2005 through 2009 from amounts made available to carry out this section''.

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to university transportation research for provisions relating to advanced vehicle technologies program.

## SUBCHAPTER II—TERMINALS

### § 5561. Definition

In this chapter, ''civic and cultural activities'' includes libraries, musical and dramatic presentations, art exhibits, adult education programs, public meeting places, and other facilities for carrying on an activity any part of which is supported under a law of the United States.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 851.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5561 ..... | 49 App.:1653(i)(10). | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(10); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, § 707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412. |

In this chapter, both sections 6 and 15 of the Amtrak Improvement Act (Public Law 93–496, 88 Stat. 1528, 1533) are listed as source credits for the addition of section 4(i) to the Department of Transportation Act (Public Law 89–670, 80 Stat. 931). This is done to conform to the probable intent of Congress as evidenced by the directory language of section 15 of the Act of October 28, 1974.

In this section, the words ''for community groups, convention visitors and others'' are omitted as unnecessary.

### § 5562. Assistance projects

(a) REQUIREMENTS TO PROVIDE ASSISTANCE.—The Secretary of Transportation shall provide financial, technical, and advisory assistance under this chapter to—

(1) promote, on a feasibility demonstration basis, the conversion of at least 3 rail passenger terminals into intermodal transportation terminals;

(2) preserve rail passenger terminals that reasonably are likely to be converted or maintained pending preparation of plans for their reuse;

(3) acquire and use space in suitable buildings of historic or architectural significance but only if use of the space is feasible and prudent when compared to available alternatives; and

(4) encourage State and local governments, local and regional transportation authorities,

common carriers, philanthropic organizations, and other responsible persons to develop plans to convert rail passenger terminals into intermodal transportation terminals and civic and cultural activity centers.

(b) EFFECT ON ELIGIBILITY.—This chapter does not affect the eligibility of any rail passenger terminal for preservation or reuse assistance under another program or law.

(c) ACQUIRING SPACE.—The Secretary may acquire space under subsection (a)(3) of this section only after consulting with the Advisory Council on Historic Preservation and the Chairman of the National Endowment for the Arts.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 851.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5562(a) ..... | 49 App.:1653(i)(1). | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(1); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1528, 1533; Feb. 5, 1976, Pub. L. 94–210, § 707(1), (2), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412. |
| 5562(b) ..... | 49 App.:1653(i)(11). | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(11); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, § 707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412. |
| 5562(c) ..... | 49 App.:1653(i)(4). | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(4); added Feb. 5, 1976, Pub. L. 94–210, § 707(4), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412. |

In subsection (a)(3), the words ''but only if'' are substituted for ''unless . . . would not'' for consistency.

In subsection (a)(4), the word ''encourage'' is substituted for ''stimulating'' for clarity.

In subsection (b), the words ''This chapter does not affect'' are substituted for ''Nothing in this subsection shall be construed to invalidate'' for clarity and consistency. The words ''rail passenger terminal'' are substituted for ''station'', and the word ''law'' is substituted for ''statute'', for consistency.

## § 5563. Conversion of certain rail passenger terminals

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of Transportation may provide financial assistance to convert a rail passenger terminal to an intermodal transportation terminal under section 5562(a)(1) of this title only if—

(1) the terminal can be converted to accommodate other modes of transportation the Secretary of Transportation decides are appropriate, including—

(A) motorbus transportation;

(B) mass transit (rail or rubber tire); and

(C) airline ticket offices and passenger terminals providing direct transportation to area airports;

(2) the terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior;

(3) the architectural integrity of the terminal will be preserved;

(4) to the extent practicable, the use of the terminal facilities for transportation may be combined with use of those facilities for other civic and cultural activities, especially when another activity is recommended by—

(A) the Advisory Council on Historic Preservation;

(B) the Chairman of the National Endowment for the Arts; or

(C) consultants retained under subsection (b) of this section; and

(5) the terminal and the conversion project meet other criteria prescribed by the Secretary of Transportation after consultation with the Council and Chairman.

(b) ARCHITECTURAL INTEGRITY.—The Secretary of Transportation must employ consultants on whether the architectural integrity of the rail passenger terminal will be preserved under subsection (a)(3) of this section. The Secretary may decide that the architectural integrity will be preserved only if the consultants concur. The Council and Chairman shall recommend consultants to be employed by the Secretary. The consultants also may make recommendations referred to in subsection (a)(4) of this section.

(c) GOVERNMENT'S SHARE OF COSTS.—The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of converting a rail passenger terminal into an intermodal transportation terminal.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 851.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5563(a), (b) | 49 App.:1653(i)(2) (1st sentence). | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(2); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1528, 1533; May 26, 1975, Pub. L. 94–25, § 13, 89 Stat. 93; Oct. 5, 1978, Pub. L. 95–421, § 14, 92 Stat. 929. |
| 5563(c) ..... | 49 App.:1653(i)(2) (last sentence). | |

In subsection (a), before clause (1), the words ''to convert a rail passenger terminal to an intermodal transportation terminal under section 5562(a)(1) of this title'' are substituted for ''for the purpose set forth in paragraph (1)(A) of this subsection'' for clarity and because of the restatement. In clause (5), the word ''prescribed'' is substituted for ''develop and promulgate'' for consistency in the revised title and with other titles of the United States Code.

Subsection (b) is substituted for ''and such judgment is concurred in by consultants recommended by the Chairman of the National Endowment of [sic] the Arts and the Advisory Council on Historic Preservation and retained for this purpose by the Secretary'' for clarity and consistency in the revised title.

## § 5564. Interim preservation of certain rail passenger terminals

(a) GENERAL GRANT AUTHORITY.—Subject to subsection (b) of this section, the Secretary of Transportation may make a grant of financial assistance to a responsible person (including a governmental authority) to preserve a rail passenger terminal under section 5562(a)(2) of this title. To receive assistance under this section, the person must be qualified, prepared, committed, and authorized by law to maintain (and prevent the demolition, dismantling, or further de-

terioration of) the terminal until plans for its reuse are prepared.

(b) GRANT REQUIREMENTS.—The Secretary of Transportation may make a grant of financial assistance under this section only if—

(1) the Secretary decides the rail passenger terminal has a reasonable likelihood of being converted to, or conditioned for reuse as, an intermodal transportation terminal, a civic or cultural activities center, or both; and

(2) planning activity directed toward conversion or reuse has begun and is proceeding in a competent way.

(c) MAXIMIZING PRESERVATION OF TERMINALS.—(1) Amounts appropriated to carry out this section and section 5562(a)(2) of this title shall be expended in the way most likely to maximize the preservation of rail passenger terminals that are—

(A) reasonably capable of conversion to intermodal transportation terminals;

(B) listed in the National Register of Historic Places maintained by the Secretary of the Interior; or

(C) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(2) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of maintaining the terminal for an interim period of not more than 5 years.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 852.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5564(a) ..... | 49 App.:1653(i)(3) (1st sentence words before proviso). | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(3); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1529, 1533; Oct. 5, 1978, Pub. L. 95–421, § 14, 92 Stat. 929. |
| 5564(b) ..... | 49 App.:1653(i)(3) (1st sentence proviso). | |
| 5564(c) ..... | 49 App.:1653(i)(3) (2d, last sentences). | |

In subsection (a), the words ''Subject to subsection (b) of this section'' are added for clarity. The word ''authority'' is substituted for ''entity'' for consistency in the revised title. The words ''in accordance with regulations'' and ''applicable'' are omitted as surplus.

In subsection (b), the words before clause (1) are substituted for ''*Provided*, That'' for clarity and consistency in the revised title.

In subsection (c)(2), the words ''The Secretary of Transportation may not make a grant'' are substituted for ''The amount of the Federal share of any grant . . . shall not exceed'' for clarity and consistency in this chapter.

## § 5565. Encouraging the development of plans for converting certain rail passenger terminals

(a) GENERAL GRANT AUTHORITY.—The Secretary of Transportation may make a grant of financial assistance to a qualified person (including a governmental authority) to encourage the development of plans for converting a rail passenger terminal under section 5562(a)(4) of this title. To receive assistance under this section, the person must—

(1) be prepared to develop practicable plans that meet zoning, land use, and other requirements of the applicable State and local jurisdictions in which the terminal is located;

(2) incorporate into the designs and plans proposed for converting the terminal, features that reasonably appear likely to attract private investors willing to carry out the planned conversion and its subsequent maintenance and operation; and

(3) complete the designs and plans for the conversion within the period of time prescribed by the Secretary.

(b) PREFERENCE.—In making a grant under this section, the Secretary of Transportation shall give preferential consideration to an applicant whose completed designs and plans will be carried out within 3 years after their completion.

(c) MAXIMIZING CONVERSION AND CONTINUED PUBLIC USE.—(1) Amounts appropriated to carry out this section and section 5562(a)(4) of this title shall be expended in the way most likely to maximize the conversion and continued public use of rail passenger terminals that are—

(A) listed in the National Register of Historic Places maintained by the Secretary of the Interior; or

(B) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(2) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of the project for which the financial assistance is provided.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 853; Pub. L. 103–429, § 6(15), Oct. 31, 1994, 108 Stat. 4379.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5565(a) ..... | 49 App.:1653(i)(5) (1st sentence). | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(5); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1529, 1533; Feb. 5, 1976, Pub. L. 94–210, § 707(3), 90 Stat. 125; Oct. 5, 1978, Pub. L. 95–421, § 14, 92 Stat. 929; Sept. 29, 1979, Pub. L. 96–73, § 128, 93 Stat. 553; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412. |
| 5565(b) ..... | 49 App.:1653(i)(5) (2d sentence). | |
| 5565(c) ..... | 49 App.:1653(i)(5) (3d, last sentences). | |

In subsection (a), before clause (1), the word ''authority'' is substituted for ''entity'' for consistency in the revised title. The words ''in accordance with regulations'' are omitted as unnecessary because of 49:322(a). In clause (1), the words ''as well as requirements . . . under this subsection'' are omitted as unnecessary because of the restatement. In clause (2), the words ''into an intermodal transportation terminal, a civic or cultural center, or both'' are omitted as unnecessary. In clause (3), the word ''prescribed'' is substituted for ''establishes'' as being more appropriate.

In subsection (b), the words ''carried out'' are substituted for ''implemented and effectuated'' for consistency in the revised title.

In subsection (c)(2), the words ''The Secretary of Transportation may not make a grant'' are substituted

for ''The amount of the Federal share of any grant . . . shall not exceed'' for clarity and consistency in this chapter. The word ''undertaking'' is omitted as being included in ''project''.

PUB. L. 103–429

This amends 49:5565 to correct an erroneous section catchline.

AMENDMENTS

1994—Pub. L. 103–429 inserted ''certain'' after ''converting'' in section catchline.

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.

### § 5566. Records and audits

(a) RECORD REQUIREMENTS.—Each recipient of financial assistance under this chapter shall keep records required by the Secretary of Transportation. The records shall disclose—

(1) the amount, and disposition by the recipient, of the proceeds of the assistance;

(2) the total cost of the project for which the assistance was given or used;

(3) the amount of that part of the cost of the project supplied by other sources; and

(4) any other records that will make an effective audit easier.

(b) AUDITS AND INSPECTIONS.—For 3 years after a project is completed, the Secretary and the Comptroller General may audit and inspect records of a recipient that the Secretary or Comptroller General decides may be related or pertinent to the financial assistance.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 853.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5566(a) ..... | 49 App.:1653(i)(8) (1st sentence). | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(8); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, § 707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412. |
| 5566(b) ..... | 49 App.:1653(i)(8) (last sentence). | |

In this section, the word ''undertaking'' is omitted as being included in ''project''.

In subsection (a), before clause (1), the word ''fully'' is omitted as surplus.

In subsection (b), the words ''the expiration of'' and ''of the United States'' are omitted as surplus. The words ''or any of their duly authorized representatives'' are omitted as unnecessary because of 49:322(b) and 31:711(2). The words ''may audit and inspect'' are substituted for ''shall have access for the purpose of audit and examination'' for consistency in the revised title and with other titles of the United States Code. The word ''recipient'' is substituted for ''such receipts'' to correct an error in the underlying source provisions.

### § 5567. Preference for preserving buildings of historic or architectural significance

Amtrak shall give preference to the use of rail passenger terminal facilities that will preserve buildings of historic or architectural significance.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 854.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5567 ..... | 49 App.:1653(i)(7). | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(7); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, § 707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412. |

The word ''Amtrak'' is substituted for ''The National Railroad Passenger Corporation'' for consistency in the revised title. The words ''rail passenger terminal'' are substituted for ''station'' for consistency in this chapter. The word ''or'' is substituted for ''and'' for consistency with the source provisions being restated in section 5562(a)(3) of the revised title.

### § 5568. Authorization of appropriations

(a) GENERAL.—The following amounts may be appropriated to the Secretary of Transportation:

(1) not more than $15,000,000 to carry out section 5562(a)(1) and (3) of this title.

(2) not more than $2,500,000 to carry out section 5562(a)(2) of this title.

(3) not more than $2,500,000 to carry out section 5562(a)(4) of this title.

(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated to carry out this chapter remain available until expended.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 854.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5568 ..... | 49 App.:1653(i)(9). | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(9); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1530, 1533; restated Feb. 5, 1976, Pub. L. 94–210, § 707(3), (5), 90 Stat. 125; Oct. 19, 1976, Pub. L. 94–555, § 219(a), 90 Stat. 2629; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412. |

In subsection (a), before clause (1), the words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

In subsection (b), the words ''to carry out'' are substituted for ''for the purpose set forth . . . in'' for consistency in the revised title and with other titles of the United States Code.

## CHAPTER 57—SANITARY FOOD TRANSPORTATION

Sec.
5701. Food transportation safety inspections.

AMENDMENTS

2008—Pub. L. 110–244, title III, § 302(g), June 6, 2008, 122 Stat. 1618, substituted ''transportation'' for ''Transportation'' in item 5701.

2005—Pub. L. 109–59, title VII, § 7203, Aug. 10, 2005, 119 Stat. 1913, reenacted chapter heading without change and amended table of sections generally, substituting item 5701 for former items 5701 ''Findings'', 5702 ''Definitions'', 5703 ''General regulation'', 5704 ''Tank trucks, rail tank cars, and cargo tanks'', 5705 ''Motor and rail transportation of nonfood products'', 5706 ''Dedicated vehicles'', 5707 ''Waiver authority'', 5708 ''Food transportation inspections'', 5709 ''Consultation'', 5710 ''Administrative'', 5711 ''Enforcement and penalties'', 5712

''Relationship to other laws'', 5713 ''Application of sections 5711 and 5712'', and 5714 ''Coordination procedures''.

### § 5701. Food transportation safety inspections

(a) INSPECTION PROCEDURES.—

(1) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture, shall establish procedures for transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of—

(A) food in violation of regulations promulgated under section 416 of the Federal Food, Drug, and Cosmetic Act;

(B) a carcass, part of a carcass, meat, meat food product, or animal subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672); and

(C) poultry products or poultry subject to detention under section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a).

(2) TRAINING.—

(A) IN GENERAL.—The Secretary of Transportation shall develop and carry out a training program to conduct enforcement of this chapter and regulations prescribed under this chapter or compatible State laws and regulations.

(B) CONDUCT.—In carrying out this paragraph, the Secretary of Transportation shall train inspectors, including Department of Transportation personnel, State employees described under subsection (c), or personnel paid with funds authorized under sections 31102 and 31104, in the recognition of adulteration problems associated with the transportation of cosmetics, devices, drugs, food, and food additives and in the procedures for obtaining assistance of the appropriate departments, agencies, and instrumentalities of the Government and State authorities to support the enforcement.

(3) APPLICABILITY.—The procedures established under paragraph (1) shall apply, at a minimum, to Department of Transportation personnel that perform commercial motor vehicle or railroad safety inspections.

(b) NOTIFICATION OF SECRETARY OF HEALTH AND HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104.

(Added Pub. L. 109–59, title VII, § 7203, Aug. 10, 2005, 119 Stat. 1913.)

REFERENCES IN TEXT

Section 416 of the Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a)(1)(A), is classified to section 350e of Title 21, Food and Drugs.

PRIOR PROVISIONS

Prior sections 5701 to 5714 were omitted in the general amendment of this chapter by Pub. L. 109–59, § 7203.

Section 5701, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 854, related to findings.

Section 5702, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 854, defined terms.

Section 5703, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 855, directed Secretary to prescribe regulations.

Section 5704, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 856, related to prohibited use of tank trucks, rail tank cars, and cargo tanks.

Section 5705, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 857, related to prohibited motor and rail transportation of nonfood products.

Section 5706, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 857, related to dedication of vehicles to transport asbestos, extremely dangerous products, or refuse.

Section 5707, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 857, related to waiver of provisions.

Section 5708, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 858, related to food transportation inspections. See section 5701 of this title.

Section 5709, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 858, related to consultation with Secretaries of Agriculture and Health and Human Services and Administrator of the Environmental Protection Agency.

Section 5710, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 858, related to duties and powers of Secretary.

Section 5711, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 858, related to enforcement and penalties.

Section 5712, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 859, related to relationship to other laws.

Section 5713, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 859, related to application of sections 5711 and 5712.

Section 5714, Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 859, related to coordination between departments, agencies, and instrumentalities.

EFFECTIVE DATE

Section effective Oct. 1, 2005, see section 7204 of Pub. L. 109–59, set out as an Effective Date of 2005 Amendment note under section 331 of Title 21, Food and Drugs.

## CHAPTER 59—INTERMODAL SAFE CONTAINER TRANSPORTATION

Sec.
5901. Definitions.
5902. Notifications and certifications.
5903. Prohibitions.
5904. State enforcement.
5905. Liens.
5906. Perishable agricultural commodities.
5907. Effective date.
5908. Relationship to other laws.

AMENDMENTS

1996—Pub. L. 104–291, title II, §§ 208(b), 209(b), Oct. 11, 1996, 110 Stat. 3457, 3458, substituted ''Effective date'' for ''Regulations and effective date'' in item 5907 and added item 5908.

### § 5901. Definitions

In this chapter—

(1) except as otherwise provided in this chapter, the definitions in sections 10102 and 13102 of this title apply.

(2) ''beneficial owner'' means a person not having title to property but having ownership rights in the property, including a trustee of property in transit from an overseas place of origin that is domiciled or doing business in the United States, except that a carrier, agent of a carrier, broker, customs broker, freight

forwarder, warehouser, or terminal operator is not a beneficial owner only because of providing or arranging for any part of the intermodal transportation of property.

(3) ''carrier'' means—

(A) a motor carrier, water carrier, and rail carrier providing transportation of property in commerce; and

(B) an ocean common carrier (as defined in section 40102 of title 46) providing transportation of property in commerce.

(4) ''container'' has the meaning given the term ''freight container'' by the International Standards Organization in Series 1, Freight Containers, 3d Edition (reference number ISO668–1979(E)), including successive revisions, and similar containers that are used in providing transportation in interstate commerce.

(5) ''first carrier'' means the first carrier transporting a loaded container or trailer in intermodal transportation.

(6) ''gross cargo weight'' means the weight of the cargo, packaging materials (including ice), pallets, and dunnage.

(7) ''intermodal transportation'' means the successive transportation of a loaded container or trailer from its place of origin to its place of destination by more than one mode of transportation in interstate or foreign commerce, whether under a single bill of lading or under separate bills of lading.

(8) ''trailer'' means a nonpower, property-carrying, trailing unit that is designed for use in combination with a truck tractor.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 859; Pub. L. 104–291, title II, § 203, Oct. 11, 1996, 110 Stat. 3453; Pub. L. 109–304, § 17(h)(2), Oct. 6, 2006, 120 Stat. 1709.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5901(1) ..... | 49:501(a)(1). | |
| 5901(2) ..... | 49:501(a)(4). | |
| 5901(3) ..... | 49:501(a)(5). | |
| 5901(4) ..... | 49:501(a)(6). | |
| 5901(5) ..... | 49:501(a)(7). | |
| 5901(6) ..... | 49:501(a)(8). | |
| 5901(7) ..... | 49:501(a)(9). | |

This chapter restates 49:508 and the relevant definitions in 49:501 because the subject matter more appropriately belongs in subtitle III of title 49. The text of 49:501(a)(1) is restated to incorporate the definitions in 49:10102. The terms defined in 49:501(a)(2) and (3) are not used in this chapter.

In clause (2), the word ''including'' is substituted for ''For purposes of this paragraph . . . shall be treated as a beneficial owner of such property'' for consistency and to eliminate unnecessary words. The words ''is not a beneficial owner only because of providing or arranging for any part of the intermodal transportation of property'' are substituted for ''providing or arranging for any portion of intermodal transportation of property shall in no case be a beneficial owner of such property, for purposes of this paragraph, solely by reason of providing or arranging for such transportation'' to eliminate unnecessary words.

In clause (3)(A), the words ''(as such terms are defined in section 10102 of this title)'' are omitted as unnecessary because of clause (1) of this section.

In clause (7), the words ''property-carrying'' are substituted for ''cargo carrying'' for consistency in the revised title.

AMENDMENTS

2006—Par. (3)(B). Pub. L. 109–304 substituted ''section 40102 of title 46'' for ''section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)''.

1996—Par. (1). Pub. L. 104–291, § 203(1), added par. (1) and struck out former par. (1) which read as follows: ''the definitions in section 10102 of this title apply.''

Pars. (6) to (8). Pub. L. 104–291, § 203(2), (3), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

## § 5902. Notifications and certifications

(a) PRIOR NOTIFICATION.—If the first carrier to which any loaded container or trailer having a projected gross cargo weight of more than 29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a notification of the gross cargo weight and a reasonable description of the contents of the container or trailer before the tendering of the container or trailer. The notification may be transmitted electronically or by telephone. This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.

(b) CERTIFICATION.—

(1) IN GENERAL.—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

(2) CONTENTS OF CERTIFICATION.—The certification required by paragraph (1) shall include—

(A) the actual gross cargo weight;

(B) a reasonable description of the contents of the container or trailer;

(C) the identity of the certifying party;

(D) the container or trailer number; and

(E) the date of certification or transfer of data to another document, as provided for in paragraph (3).

(3) TRANSFER OF CERTIFICATION DATA.—A carrier who receives a certification may transfer the information contained in the certification to another document or to electronic format for forwarding to a subsequent carrier. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identity of the party who performed the transfer.

(4) SHIPPING DOCUMENTS.—For purposes of this chapter, a shipping document, prepared by the person who tenders a container or trailer to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

(5) USE OF ''FREIGHT ALL KINDS'' TERM.—The term ''Freight All Kinds'' or ''FAK'' may not be used for the purpose of certification under section 5902(b) after December 31, 2000, as a commodity description for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the total weight of the contents of the trailer or container. This subsection does not

prohibit the use of the term after that date for rating purposes.

(6) SEPARATE DOCUMENT MARKING.—If a separate document is used to meet the requirements of paragraph (1), it shall be conspicuously marked ''INTERMODAL CERTIFICATION''.

(7) APPLICABILITY.—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.

(c) FORWARDING CERTIFICATIONS TO SUBSEQUENT CARRIERS.—A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator shall forward the certification provided under subsection (b) of this section to a subsequent carrier transporting the container or trailer in intermodal transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required. The act of forwarding the certification may not be construed as a verification or affirmation of the accuracy or completeness of the information in the certification. If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.

(d) LIABILITY TO OWNER OR BENEFICIAL OWNER.—If—

(1) a person inaccurately transfers information on a certification required by subsection (b)(1), or fails to forward a certification to the subsequent carrier;

(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest; and

(3) that subsequent carrier exercises its rights to a lien under section 5905,

then that person is liable to the owner or beneficial owner, or to any other person paying the amount of the lien to the subsequent carrier, for the amount of the lien and all costs related to the imposition of the lien, including court costs and legal fees incurred in connection with it.

(e) NONAPPLICATION.—(1) The notification and certification requirements of subsections (a) and (b) of this section do not apply to any intermodal container or trailer containing consolidated shipments loaded by a motor carrier if that motor carrier—

(A) performs the highway portion of the intermodal movement; or

(B) assumes the responsibility for any weight-related fine or penalty incurred by any other motor carrier that performs a part of the highway transportation.

(2) Subsections (a) and (b) of this section and section 5903(c) of this title do not apply to a carrier when the carrier is transferring a loaded container or trailer to another carrier during intermodal transportation, unless the carrier is also the person tendering the loaded container or trailer to the first carrier.

(3) A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator is deemed not to be a person tendering a loaded container or trailer to a first carrier under this section, unless the carrier, agent, broker, customs broker, freight forwarder, warehouser, or terminal operator assumes legal responsibility for loading property into the container or trailer.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 860; Pub. L. 104–291, title II, § 204, Oct. 11, 1996, 110 Stat. 3453.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5902(a) ..... | 49:508(a)(1). | |
| 5902(b) ..... | 49:508(a)(2). | |
| 5902(c) ..... | 49:508(b). | |
| 5902(d)(1) .... | 49:508(e). | |
| 5902(d)(2) .... | 49:508(a)(4). | |

In subsection (c), the words ''shall forward'' are substituted for ''It shall be a violation of this section for . . . to fail to forward'' for clarity. The words ''may not be construed as'' are substituted for ''shall not constitute, or in any way be construed as'' to eliminate unnecessary words.

In subsection (d)(2), the words ''is deemed not to be'' are substituted for ''shall not be considered to be'' for consistency in the revised title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–291, § 204(a)(4), (5), substituted ''electronically or by telephone. This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.'' for ''electronically.''

Pub. L. 104–291, § 204(a)(3), inserted ''before the tendering of the container or trailer'' after ''contents of the container or trailer''.

Pub. L. 104–291, § 204(a)(2), substituted ''29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a'' for ''10,000 pounds (including packing material and pallets), the person shall give the carrier a written''.

Pub. L. 104–291, § 204(a)(1), substituted ''If the first carrier to which any'' for ''Before a person tenders to a first carrier for intermodal transportation a''.

Subsec. (b). Pub. L. 104–291, § 204(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''Not later than when a person tenders to a first carrier for intermodal transportation a container or trailer to which subsection (a) of this section applies or a loaded container or trailer having an actual gross cargo weight of more than 10,000 pounds (including packing material and pallets), the person shall certify to the carrier in writing the actual

gross cargo weight and a reasonable description of the contents of the container or trailer.''

Subsec. (c). Pub. L. 104–291, § 204(c)(2), inserted at end ''If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.''

Pub. L. 104–291, § 204(c)(1), substituted ''transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required.'' for ''transportation.''

Subsec. (d). Pub. L. 104–291, § 204(d), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 104–291, § 204(d), (e), redesignated subsec. (d) as (e), added par. (1), redesignated former pars. (1) and (2) as (2) and (3), respectively, and adjusted margin of par. (2).

## § 5903. Prohibitions

(a) PROVIDING ERRONEOUS INFORMATION.—A person, To[1] whom section 5902(b) applies, tendering a loaded container or trailer may not provide erroneous information in a certification required by section 5902(b) of this title.

(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—

(1) PRESUMPTION.—If no certification is received by a motor carrier before or when a loaded intermodal container or trailer is tendered to it, the motor carrier may presume that the gross cargo weight of the container or trailer is less than 29,001 pounds.

(2) COPY OF CERTIFICATION NOT REQUIRED TO ACCOMPANY CONTAINER OR TRAILER.—Notwithstanding any other provision of this chapter to the contrary, a copy of the certification required by section 5902(b) is not required to accompany the intermodal container or trailer.

(c) UNLAWFUL COERCION.—(1) A person may not coerce or attempt to coerce a person participating in intermodal transportation to transport a loaded container or trailer having an actual gross cargo weight of more than 29,000 pounds before the certification required by section 5902(b) of this title is provided.

(2) A person, knowing that the weight of a loaded container or trailer or the weight of a tractor-trailer combination carrying the container or trailer is more than the weight allowed by applicable State law, may not coerce or attempt to coerce a carrier to transport the container or trailer or to operate the tractor-trailer combination in violation of that State law.

(d) NOTICE TO LEASED OPERATORS.—

(1) IN GENERAL.—If a motor carrier knows that the gross cargo weight of an intermodal container or trailer subject to the certification requirements of section 5902(b) would result in a violation of applicable State gross vehicle weight laws, then—

(A) the motor carrier shall give notice to the operator of a vehicle which is leased by the vehicle operator to a motor carrier that transports an intermodal container or trailer of the gross cargo weight of the container or trailer as certified to the motor carrier under section 5902(b);

(B) the notice shall be provided to the operator prior to the operator being tendered the container or trailer;

(C) the notice required by this subsection shall be in writing, but may be transmitted electronically; and

(D) the motor carrier shall bear the burden of proof to establish that it tendered the required notice to the operator.

(2) REIMBURSEMENT.—If the operator of a leased vehicle transporting a container or trailer subject to this chapter is fined because of a violation of a State's gross vehicle weight laws or regulations and the lessee motor carrier cannot establish that it tendered to the operator the notice required by paragraph (1) of this subsection, then the operator shall be entitled to reimbursement from the motor carrier in the amount of any fine and court costs resulting from the failure of the motor carrier to tender the notice to the operator.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 860; Pub. L. 104–291, title II, § 205, Oct. 11, 1996, 110 Stat. 3456.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5903(a) ..... | 49:508(a)(3) (related to violations). | |
| 5903(b) ..... | 49:508(d). | |
| 5903(c) ..... | 49:508(c). | |

In this section, the words ''may not'' are substituted for ''it shall be a violation'' and ''It shall be unlawful'' for consistency in the revised title.

In subsection (a), the words ''After the date on which the Secretary of Transportation issues final regulations to enforce this section'' are omitted because of section 5907(b) of the revised title. The words ''to fail to comply with paragraph (1) or (2)'' are omitted as unnecessary because the failure to comply with an affirmative duty is a violation without the need to say so specifically. The word ''false'' is omitted as included in ''erroneous''. The word ''written'' is omitted as surplus.

In subsection (b), the words ''(as such term is defined in section 10102 of this title)'' are omitted as unnecessary because of section 5901(1) of the revised title. The word ''transport'' is substituted for ''provide transportation of'' for consistency and to eliminate unnecessary words.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–291, § 205(1), inserted '', To whom section 5902(b) applies,'' after ''person''.

Subsec. (b). Pub. L. 104–291, § 205(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—A motor carrier may not transport a loaded container or trailer to which section 5902(b) of this title applies before receiving the certification required by section 5902(b).''

Subsec. (c). Pub. L. 104–291, § 205(3), substituted ''29,000 pounds'' for ''10,000 pounds (including packing materials and pallets)''.

[1] So in original. Probably should not be capitalized.

Subsec. (d). Pub. L. 104–291, § 205(4), added subsec. (d).

### § 5904. State enforcement

(a) GENERAL.—A State may enact a law to permit the State or a political subdivision of the State—

(1) to impose a fine or penalty, for a violation of a State highway weight law or regulation by a tractor-trailer combination carrying a loaded container or trailer for which a certification is required by section 5902(b) of this title, against the person tendering the loaded container or trailer to the first carrier if the violation results from the person's having provided erroneous information in the certification in violation of section 5903(a) of this title; and

(2) to impound the container or trailer until the fine or penalty has been paid by the owner or beneficial owner of the contents of the container or trailer or the person tendering the loaded container or trailer to the first carrier.

(b) LIMITATION.—This chapter does not require a person tendering a loaded container or trailer to a first carrier to ensure that the first carrier or any other carrier involved in the intermodal transportation will comply with any State highway weight law or regulation, other than as required by this chapter.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 861.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5904(a) ..... | 49:508(f). | |
| 5904(b) ..... | 49:508(h). | |

In subsection (a)(1), the words ''false'' and ''written'' are omitted as surplus and for consistency with section 5903(a) of the revised title.

In subsection (b), the words ''does not require'' are substituted for ''shall not be construed as creating any obligation or responsibility for'' to eliminate unnecessary words. The words ''State highway weight law or regulation'' are substituted for ''State statutes or regulations prescribing weight limitations for highway transportation'' for consistency with subsection (a) of this section and to eliminate unnecessary words.

### § 5905. Liens

(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required, because of a violation of a State's gross vehicle weight laws or regulations, to post a bond or pay a fine, penalty, cost (including storage), or interest resulting from—

(1) erroneous information provided by the certifying party in the certification to the first carrier in violation of section 5903(a) of this title;

(2) the failure of the party required to provide the certification to the first carrier to provide it;

(3) the failure of a person required under section 5902(c) to forward the certification to forward it; or

(4) an error occurring in the transfer of information on the certification to another document under section 5902(b)(3) or (c),

then the person posting the bond, or paying the fine, penalty, costs (including storage), or interest has a lien against the contents equal to the amount of the bond, fine, penalty, cost (including storage), or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents, or from the person responsible for making or forwarding the certification, or transferring the information from the certification to another document.

(b) LIMITATIONS.—(1) A lien under this section does not authorize a person to dispose of the contents of a loaded container or trailer until the person who tendered the container or trailer to the first carrier, or the owner or beneficial owner of the contents, is given a reasonable opportunity to establish responsibility for the bond, fine, penalty, cost (including storage), or interest. The lien shall remain in effect until the lien holder has received payment for all costs and expenses described in subsection (a) of this section.

(2) In this section, an owner or beneficial owner of the contents of a container or trailer or a person tendering a container or trailer to the first carrier is deemed not to be a person involved in the intermodal transportation of the container or trailer.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 861; Pub. L. 104–291, title II, § 206, Oct. 11, 1996, 110 Stat. 3457.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5905(a) ..... | 49:508(g)(1). | |
| 5905(b) ..... | 49:508(g)(2)(A), (B). | |

In this section, the word ''expenses'' is omitted as surplus.

In subsection (a), the words ''false'' and ''written'' are omitted as surplus and for consistency with section 5903(a) of the revised title.

In subsection (b)(1), the word ''establish'' is substituted for ''determine'' for consistency in the revised title.

In subsection (b)(2), the words ''is deemed not to be'' are substituted for ''shall not be treated as'' for consistency in the revised title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–291, § 206(1), added subsec. (a) and struck out former subsec. (a) which read as follows:

''(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required under State law to post a bond or pay any fine, penalty, cost, or interest resulting from providing erroneous information in the certification to the first carrier in violation of section 5903(a) of this title, the person has a lien against the contents equal to the amount of the bond, fine, penalty, cost, or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents or from the person responsible for making the certification.''

Subsec. (b)(1). Pub. L. 104–291, § 206(3), substituted ''cost (including storage), or interest. The lien shall remain in effect until the lien holder has received payment for all costs and expenses described in subsection (a) of this section.'' for ''cost, or interest.''

Pub. L. 104–291, § 206(2), inserted '', or the owner or beneficial owner of the contents,'' after ''first carrier''.

### § 5906. Perishable agricultural commodities

Section 5905 of this title does not apply to a container or trailer the contents of which are perishable agricultural commodities (as defined in the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.)).

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 861; Pub. L. 104–291, title II, § 207, Oct. 11, 1996, 110 Stat. 3457.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5906 ..... | 49:508(g)(2)(C). | |

REFERENCES IN TEXT

The Perishable Agricultural Commodities Act, 1930, referred to in text, is act June 10, 1930, ch. 436, 46 Stat. 531, as amended, which is classified generally to chapter 20A (§ 499a et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 499a(a) of Title 7 and Tables.

AMENDMENTS

1996—Pub. L. 104–291 substituted ''Section 5905 of this title does'' for ''Sections 5904(a)(2) and 5905 of this title do''.

### § 5907. Effective date

This chapter shall take effect 180 days after the date of enactment of the Intermodal Safe Container Transportation Amendments Act of 1996.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 862; Pub. L. 104–291, title II, § 208(a), Oct. 11, 1996, 110 Stat. 3457.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5907(a) ..... | 49:508 (note). | Oct. 28, 1992, Pub. L. 102–548, § 2(d), 106 Stat. 3649. |
| 5907(b) ..... | 49:508(a)(3) (related to effective date). | |

In subsection (a), the words ''shall initiate a proceeding to issue regulations . . . within 180 days after the date of enactment of this Act'' are omitted as executed.

Subsection (b) is substituted for the source provision and made applicable to the entire chapter for clarity.

REFERENCES IN TEXT

The date of enactment of the Intermodal Safe Container Transportation Amendments Act of 1996, referred to in text, is the date of enactment of Pub. L. 104–291, which was approved Oct. 11, 1996.

AMENDMENTS

1996—Pub. L. 104–291 substituted ''Effective date'' for ''Regulations and effective date'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) REGULATIONS.—Not later than July 25, 1993, the Secretary of Transportation shall prescribe final regulations to enforce this chapter. The Secretary may establish by regulation exemptions to the regulations that are in the public interest and consistent with the purposes of this chapter.

''(b) EFFECTIVE DATE.—This chapter is effective on the date final regulations to enforce this chapter are prescribed.''

### § 5908. Relationship to other laws

Nothing in this chapter affects—

(1) chapter 51 (relating to transportation of hazardous material) or the regulations promulgated under that chapter; or

(2) any State highway weight or size law or regulation applicable to tractor-trailer combinations.

(Added Pub. L. 104–291, title II, § 209(a), Oct. 11, 1996, 110 Stat. 3458.)

## CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS

Sec.
6101. Purposes.
6102. Definitions.
6103. Minimum standards for State one-call notification programs.
6104. Compliance with minimum standards.
6105. Implementation of best practices guidelines.
6106. Grants to States.
6107. Authorization of appropriations.
6108. Relationship to State laws.
6109. Public education and awareness.

AMENDMENTS

2006—Pub. L. 109–468, § 3(b), Dec. 29, 2006, 120 Stat. 3490, added item 6109.

2002—Pub. L. 107–355, § 2(c)(2), Dec. 17, 2002, 116 Stat. 2986, substituted ''Implementation of best practices guidelines'' for ''Review of one-call system best practices'' in item 6105.

### § 6101. Purposes

The purposes of this chapter are—

(1) to enhance public safety;

(2) to protect the environment;

(3) to minimize risks to excavators; and

(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the voluntary adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

(Added Pub. L. 105–178, title VII, § 7302(a), June 9, 1998, 112 Stat. 478.)

TRANSFER OF FUNCTIONS

For transfer of duties, powers, and authority of Research and Special Programs Administration under this chapter to the Administrator of the Pipeline and Hazardous Materials Safety Administration, see section 2(b) of Pub. L. 108–426, set out as a note under section 108 of this title.

CONGRESSIONAL FINDINGS

Pub. L. 105–178, title VII, § 7301, June 9, 1998, 112 Stat. 477, provided that: ''Congress finds that—

''(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power, and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

''(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate or untimely marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

''(3) protection of the public and the environment from the consequences of underground facility dam-

age caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.''

### § 6102. Definitions

In this chapter, the following definitions apply:

(1) ONE-CALL NOTIFICATION SYSTEM.—The term ''one-call notification system'' means a system operated by an organization that has as 1 of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

(2) STATE ONE-CALL NOTIFICATION PROGRAM.—The term ''State one-call notification program'' means the State statutes, regulations, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

(3) STATE.—The term ''State'' means a State, the District of Columbia, and Puerto Rico.

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

(Added Pub. L. 105–178, title VII, § 7302(a), June 9, 1998, 112 Stat. 478.)

### § 6103. Minimum standards for State one-call notification programs

(a) MINIMUM STANDARDS.—In order to qualify for a grant under section 6106, a State one-call notification program shall, at a minimum, provide for—

(1) appropriate participation by all underground facility operators, including all government operators;

(2) appropriate participation by all excavators, including all government and contract excavators; and

(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

(1) damage to types of underground facilities; and

(2) activities of types of excavators.

(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for and document—

(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a de minimis risk to public safety or the environment.

(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

(4) equitable relief; and

(5) citation of violations.

(Added Pub. L. 105–178, title VII, § 7302(a), June 9, 1998, 112 Stat. 479; amended Pub. L. 107–355, § 2(a), Dec. 17, 2002, 116 Stat. 2985.)

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–355, § 2(a)(1)(A), inserted '', including all government operators'' before semicolon at end.

Subsec. (a)(2). Pub. L. 107–355, § 2(a)(1)(B), inserted '', including all government and contract excavators'' before semicolon.

Subsec. (c). Pub. L. 107–355, § 2(a)(2), substituted ''provide for and document'' for ''provide for'' in introductory provisions.

### § 6104. Compliance with minimum standards

(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall submit to the Secretary a grant application under subsection (b). The State shall submit the application not later than 2 years after the date of enactment of this chapter.

(b) APPLICATION.—

(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for the implementation of the program and the record of compliance and enforcement under the program.

(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

(4) The Secretary shall prescribe the form and manner of filing an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

(c) ALTERNATIVE PROGRAM.—A State is eligible to receive a grant under section 6106 if the State maintains an alternative one-call notification program that provides protection for public safety, excavators, and the environment that is equivalent to, or greater than, protection provided under a program that meets the minimum standards set forth in section 6103.

(d) REPORT.—The Secretary shall include the following information in reports submitted under section 60124 of this title—

(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

(2) an analysis by the Secretary of the overall effectiveness of each State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

(3) the impact of each State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

(4) areas where improvements are needed in one-call notification systems in operation in each State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

(Added Pub. L. 105–178, title VII, § 7302(a), June 9, 1998, 112 Stat. 479; amended Pub. L. 107–355, § 2(b), Dec. 17, 2002, 116 Stat. 2985.)

REFERENCES IN TEXT

The date of the enactment of this chapter, referred to in subsec. (a), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107–355 substituted "The Secretary shall" for "Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to" in introductory provisions.

### § 6105. Implementation of best practices guidelines

(a) ADOPTION OF BEST PRACTICES.—The Secretary of Transportation shall encourage States, operators of one-call notification programs, excavators (including all government and contract excavators), and underground facility operators to adopt and implement practices identified in the best practices report entitled "Common Ground", as periodically updated.

(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to and participate in programs sponsored by a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities.

(c) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to a non-profit organization described in subsection (b).

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 6107, there is authorized to be appropriated for making grants under this subsection $500,000 for each of fiscal years 2003 through 2006. Such sums shall remain available until expended.

(3) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301.

(Added Pub. L. 105–178, title VII, § 7302(a), June 9, 1998, 112 Stat. 480; amended Pub. L. 107–355, § 2(c)(1), Dec. 17, 2002, 116 Stat. 2985.)

AMENDMENTS

2002—Pub. L. 107–355 amended section generally. Prior to amendment, section related to study of existing one-call systems, purpose and considerations of study, report by Secretary within one year of June 9, 1998, and discretion of Secretary as to whether to carry out study.

### § 6106. Grants to States

(a) IN GENERAL.—The Secretary may make a grant of financial assistance to a State that qualifies under section 6104(b) to assist in improving—

(1) the overall quality and effectiveness of one-call notification systems in the State;

(2) communications systems linking one-call notification systems;

(3) location capabilities, including training personnel and developing and using location technology;

(4) record retention and recording capabilities for one-call notification systems;

(5) public information and education;

(6) participation in one-call notification systems; or

(7) compliance and enforcement under the State one-call notification program.

(b) STATE ACTION TAKEN INTO ACCOUNT.—In making grants under this section, the Secretary shall take into consideration the commitment of each State to improving its State one-call notification program, including legislative and regulatory actions taken by the State after the date of enactment of this chapter.

(c) FUNDING FOR ONE-CALL NOTIFICATION SYSTEMS.—A State may provide funds received under this section directly to any one-call notification system in such State that substantially adopts the best practices identified under section 6105.

(Added Pub. L. 105–178, title VII, § 7302(a), June 9, 1998, 112 Stat. 482.)

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (b), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

### § 6107. Authorization of appropriations

(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary to provide grants to States under section 6106 $1,000,000 for each of fiscal years 2007 through 2010. Such funds shall remain available until expended.

(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out sections 6103, 6104, and 6105 for fiscal years 2007 through 2010.

(c) GENERAL REVENUE FUNDING.—Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title.

(Added Pub. L. 105–178, title VII, § 7302(a), June 9, 1998, 112 Stat. 482; amended Pub. L. 107–355, § 2(d), Dec. 17, 2002, 116 Stat. 2986; Pub. L. 109–468, § 18(d), Dec. 29, 2006, 120 Stat. 3498.)

AMENDMENTS

2006—Subsecs. (a), (b). Pub. L. 109–468 substituted ''fiscal years 2007 through 2010'' for ''fiscal years 2003 through 2006''.

2002—Subsec. (a). Pub. L. 107–355, § 2(d)(1), substituted ''$1,000,000 for each of fiscal years 2003 through 2006'' for ''$1,000,000 for fiscal year 2000 and $5,000,000 for fiscal year 2001'' in first sentence.

Subsec. (b). Pub. L. 107–355, § 2(d)(2), substituted ''for fiscal years 2003 through 2006'' for ''for fiscal years 1999, 2000, and 2001''.

### § 6108. Relationship to State laws

Nothing in this chapter preempts State law or shall impose a new requirement on any State or mandate revisions to a one-call system.

(Added Pub. L. 105–178, title VII, § 7302(a), June 9, 1998, 112 Stat. 482.)

### § 6109. Public education and awareness

(a) GRANT AUTHORITY.—The Secretary shall make a grant to an appropriate entity for promoting public education and awareness with respect to the 811 national excavation damage prevention phone number.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $1,000,000 for the period beginning October 1, 2006, and ending September 30, 2008, to carry out this section.

(Added Pub. L. 109–468, § 3(a), Dec. 29, 2006, 120 Stat. 3489.)

## SUBTITLE IV—INTERSTATE TRANSPORTATION

PART A—RAIL


| Chapter | | Sec. |
|---|---|---|
| **101.** | **GENERAL PROVISIONS** | **10101** |
| **105.** | **JURISDICTION** | **10501** |
| **107.** | **RATES** | **10701** |
| **109.** | **LICENSING** | **10901** |
| **111.** | **OPERATIONS** | **11101** |
| **113.** | **FINANCE** | **11301** |
| **115.** | **FEDERAL-STATE RELATIONS** | **11501** |
| **117.** | **ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES** | **11701** |
| **119.** | **CIVIL AND CRIMINAL PENALTIES** | **11901** |


PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS


| Chapter | | Sec. |
|---|---|---|
| **131.** | **GENERAL PROVISIONS** | **13101** |
| **133.** | **ADMINISTRATIVE PROVISIONS** | **13301** |
| **135.** | **JURISDICTION** | **13501** |
| **137.** | **RATES AND THROUGH ROUTES** | **13701** |
| **139.** | **REGISTRATION** | **13901** |
| **141.** | **OPERATIONS OF CARRIERS** | **14101** |
| **143.** | **FINANCE** | **14301** |
| **145.** | **FEDERAL-STATE RELATIONS** | **14501** |
| **147.** | **ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES** | **14701** |
| **149.** | **CIVIL AND CRIMINAL PENALTIES** | **14901** |


PART C—PIPELINE CARRIERS


| Chapter | | Sec. |
|---|---|---|
| **151.** | **GENERAL PROVISIONS** | **15101** |
| **153.** | **JURISDICTION** | **15301** |
| **155.** | **RATES** | **15501** |
| **157.** | **OPERATIONS OF CARRIERS** | **15701** |
| **159.** | **ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES** | **15901** |
| **161.** | **CIVIL AND CRIMINAL PENALTIES** | **16101** |


PRIOR PROVISIONS

A prior subtitle IV, consisting of chapters 101 to 119, related to interstate commerce, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1997—Pub. L. 105–102, § 2(5), Nov. 20, 1997, 111 Stat. 2204, struck out ''AND TARIFFS'' after ''RATES'' in item for chapter 155.

PART A—RAIL

## CHAPTER 101—GENERAL PROVISIONS


Sec.
10101. Rail transportation policy.
10102. Definitions.


### § 10101. Rail transportation policy

In regulating the railroad industry, it is the policy of the United States Government—

(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Board;

(4) to ensure the development and continuation of a sound rail transportation system