

“(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.”

Section 3 of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, provided that:

“(a) Sections 1 and 2 of this Act restate, without substantive change, laws enacted before May 16, 1978, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after May 15, 1978, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency.

“(b) A reference to a law replaced by sections 1 and 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

“(c) An order, rule, or regulation in effect under a law replaced by sections 1 and 2 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

“(d) An action taken or an offense committed under a law replaced by sections 1 and 2 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

“(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

“(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.”

REPEALS AND SAVINGS PROVISIONS

Section 5(a) of Pub. L. 105-102, Nov. 20, 1997, 111 Stat. 2216, provided that: “The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.”

Section 5(b) of Pub. L. 105-102, Nov. 20, 1997, 111 Stat. 2217, as amended by Pub. L. 105-225, §7(c)(2), Aug. 12, 1998, 112 Stat. 1511, repealed specified laws, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Nov. 20, 1997.

Section 10(a) of Pub. L. 104-287, Oct. 11, 1996, 110 Stat. 3401, provided that: “The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.”

Section 10(b) of Pub. L. 104-287, Oct. 11, 1996, 110 Stat. 3401, repealed specified laws, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Oct. 11, 1996.

Section 11(a) of Pub. L. 103-429, Oct. 31, 1994, 108 Stat. 4391, provided that: “The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.”

Section 11(b) of Pub. L. 103-429, Oct. 31, 1994, 108 Stat. 4391, repealed specified laws, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Oct. 31, 1994.

Section 7(a) of Pub. L. 103-272, July 5, 1994, 108 Stat. 1379, provided that: “The repeal of a law by this Act may not be construed as a legislative implication that the provision was or was not in effect before its repeal.”

Section 7(b) of Pub. L. 103-272, July 5, 1994, 108 Stat. 1379, as amended by Pub. L. 103-429, §7(a)(5), Oct. 31, 1994, 108 Stat. 4389, repealed specified laws, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before July 5, 1994.

Section 6(a) of Pub. L. 98-216, Feb. 14, 1984, 98 Stat. 7, provided that: “The repeal of a law enacted [the word “enacted” probably should not appear] by this Act may

not be construed as a legislative inference that the provision was or was not in effect before its repeal.”

Section 6(b) of Pub. L. 98-216, Feb. 14, 1984, 98 Stat. 7, repealed specified laws, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Feb. 14, 1984.

Section 7(a) of Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2443, provided that: “The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.”

Section 7(b) of Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2443, repealed specified laws, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Jan. 12, 1983.

Section 3(a) of Pub. L. 96-258, June 3, 1980, 94 Stat. 427, provided that: “The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.”

Section 3(b) of Pub. L. 96-258, June 3, 1980, 94 Stat. 427, repealed certain sections and parts of sections of the Interstate Commerce Act and certain other provisions relating to applicability of such Act, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before June 3, 1980.

Section 4(a) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, provided that: “The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.”

Section 4(b) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, repealed the sections and parts of sections of the Interstate Commerce Act and certain other provisions relating to the applicability of such Act, except as provided in section 4(c) of Pub. L. 95-473 and except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Oct. 17, 1978.

Section 4(c) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1470, which provided that the laws specified in the schedule in section 4(b) of Pub. L. 95-473, as they existed on Oct. 1, 1977, were not repealed to the extent those laws (A) vested functions in the Interstate Commerce Commission, or in the chairman or members of the Commission, related to transportation of oil by pipeline, and (B) vested functions and authority in the Commission, or an officer or component of the Commission, related to the establishment of rates or charges for transportation of oil by pipeline or valuation of any such pipeline, and those functions and authority were transferred by sections 7155 and 7172(b) of Title 42, The Public Health and Welfare, was repealed and reenacted in sections 60501 and 60502 of this title by Pub. L. 103-272, §§1(e), 7(b), July 5, 1994, 108 Stat. 1329, 1379.

EFFECTIVE DATE OF CERTAIN REPEALS

Section 4(d) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1470, as amended by Pub. L. 97-449, §4(b)(3), Jan. 12, 1983, 96 Stat. 2441, provided that: “The repeals, by subsection (b) of this section, of section 1(a)(25), (26) of the Act of July 3, 1952, chapter 570, the Act of June 30, 1953, chapter 165, and the Act of July 31, 1953, chapter 292, are effective on September 14, 1978.”

SUBTITLE I—DEPARTMENT OF TRANSPORTATION

Chapter 1. Organization 101
3. General Duties and Powers 301
5. Special Authority 501
7. Surface Transportation Board 701

AMENDMENTS

1995—Pub. L. 104-88, title II, §201(b), Dec. 29, 1995, 109 Stat. 940, added item for chapter 7.

CHAPTER 1—ORGANIZATION

Sec. 101. Purpose.

Sec.	
102.	Department of Transportation.
103.	Federal Railroad Administration.
104.	Federal Highway Administration.
105.	National Highway Traffic Safety Administration.
106.	Federal Aviation Administration.
107.	Federal Transit Administration.
108.	Pipeline and Hazardous Materials Safety Administration.
109.	Maritime Administration.
110.	Saint Lawrence Seaway Development Corporation.
111.	Bureau of Transportation Statistics.
112.	Research and Innovative Technology Administration.
113.	Federal Motor Carrier Safety Administration.
114.	Transportation Security Administration.
115.	Transportation Security Oversight Board.

AMENDMENTS

2004—Pub. L. 108-426, §§2(c)(1), 4(e), Nov. 30, 2004, 118 Stat. 2424, 2426, substituted “Pipeline and Hazardous Materials Safety Administration” for “Coast Guard” in item 108 and “Research and Innovative Technology Administration” for “Research and Special Programs Administration” in item 112.

2001—Pub. L. 107-71, title I, §§101(b), 102(d), Nov. 19, 2001, 115 Stat. 602, 605, added items 114 and 115.

1999—Pub. L. 106-159, title I, §101(c)(1), Dec. 9, 1999, 113 Stat. 1751, added item 113.

1994—Pub. L. 103-272, §4(j)(5)(B), July 5, 1994, 108 Stat. 1366, as amended by Pub. L. 103-429, §7(a)(3)(C), Oct. 31, 1994, 108 Stat. 4388, struck out first item 110 “St. Lawrence Seaway Development Corporation”.

1992—Pub. L. 102-508, title IV, §401(b), Oct. 24, 1992, 106 Stat. 3310, added item 112.

1991—Pub. L. 102-240, title III, §3004(c)(3), title VI, §6006(c), Dec. 18, 1991, 105 Stat. 2088, 2174, substituted “Federal Transit Administration” for “Urban Mass Transportation Administration” in item 107 and added second item 110 and item 111.

§ 101. Purpose

(a) The national objectives of general welfare, economic growth and stability, and security of the United States require the development of transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation at the lowest cost consistent with those and other national objectives, including the efficient use and conservation of the resources of the United States.

(b) A Department of Transportation is necessary in the public interest and to—

(1) ensure the coordinated and effective administration of the transportation programs of the United States Government;

(2) make easier the development and improvement of coordinated transportation service to be provided by private enterprise to the greatest extent feasible;

(3) encourage cooperation of Federal, State, and local governments, carriers, labor, and other interested persons to achieve transportation objectives;

(4) stimulate technological advances in transportation, through research and development or otherwise;

(5) provide general leadership in identifying and solving transportation problems; and

(6) develop and recommend to the President and Congress transportation policies and programs to achieve transportation objectives considering the needs of the public, users, carriers, industry, labor, and national defense.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2414; Pub. L. 102-240, title VI, §6018, Dec. 18, 1991, 105 Stat. 2183.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
101(a)	49:1651(a).	Oct. 15, 1966, Pub. L. 89-670, §2(a), (b)(1), 80 Stat. 931.
101(b)	49:1651(b)(1).	

In subsections (a) and (b), the introductory declaratory words are omitted as surplus.

In subsection (a), the words “national objectives of” are inserted for clarity. The words “United States” are substituted for “Nation” and “Nation’s”, respectively, for consistency. The word “contribute” is substituted for “conducive” because the substituted word is more commonly used. The word “those” is substituted for “utilization”.

In subsection (b)(2), the word “greatest” is substituted for “maximum” for consistency.

In subsection (b)(3) and (6), the word “national” is omitted before “transportation” as unnecessary and for consistency.

In subsection (b)(3), the word “persons” is substituted for “parties” as being more precise.

In subsection (b)(6), the words “transportation objectives” are substituted for “these objectives” for clarity and consistency. The words “full and appropriate” and “for approval” are omitted as surplus.

AMENDMENTS

1991—Subsec. (b)(4). Pub. L. 102-240 inserted “, through research and development or otherwise” after “advances in transportation”.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-426, §1, Nov. 30, 2004, 118 Stat. 2423, provided that: “This Act [enacting section 108 of this title, amending sections 111, 112, 5118, and 5503 of this title, sections 5314 and 5316 of Title 5, Government Organization and Employees, section 844 of Title 18, Crimes and Criminal Procedure, section 2761 of Title 33, Navigation and Navigable Waters, and section 1121-2 of Title 46, Appendix, Shipping, enacting provisions set out as notes under sections 108 and 112 of this title, and amending provisions set out as a note under section 1135 of this title] may be cited as the ‘Norman Y. Mineta Research and Special Programs Improvement Act’.”

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-159, §1(a), Dec. 9, 1999, 113 Stat. 1748, provided that: “This Act [see Tables for classification] may be cited as the ‘Motor Carrier Safety Improvement Act of 1999’.”

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104-88, §1(a), Dec. 29, 1995, 109 Stat. 803, provided that: “This Act [see Tables for classification] may be cited as the ‘ICC Termination Act of 1995’.”

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-411, §1, Oct. 25, 1994, 108 Stat. 4236, provided that: “This Act [amending sections 1118, 1131, and 40102 of this title and enacting provisions set out as notes under sections 1131 and 40109 of this title] may be cited as the ‘Independent Safety Board Act Amendments of 1994’.”

SHORT TITLE OF 1991 AMENDMENT

Section 1 of Pub. L. 102-240 provided that: “This Act [see Tables for classification] may be cited as the ‘Intermodal Surface Transportation Efficiency Act of 1991’.”

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF
TITLE 51

Pub. L. 111–314, §4(d)(8), Dec. 18, 2010, 124 Stat. 3443, provided that: “In title 49, United States Code, references to ‘this title’ are deemed to refer also to chapters 509 and 511 of title 51, United States Code.”

CONGRESSIONAL DECLARATION OF POLICY REGARDING
NATIONAL INTERMODAL TRANSPORTATION SYSTEM

Section 2 of Pub. L. 102–240, which provided that it was the policy of the United States to develop a National Intermodal Transportation System consisting of all forms of transportation in a unified, interconnected manner, a National Highway System, improvements in public transportation achieving goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons, was repealed and reenacted as section 5501 of this title by Pub. L. 103–272, §§1(d), 7(b), July 5, 1994, 108 Stat. 848, 1379.

“SECRETARY” DEFINED

Pub. L. 106–159, §2, Dec. 9, 1999, 113 Stat. 1749, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of Transportation.”

Section 3 of Pub. L. 102–240 provided that: “As used in this Act [see Short Title of 1991 Amendment note set out above], the term ‘Secretary’ means the Secretary of Transportation.”

EX. ORD. NO. 13330. HUMAN SERVICE TRANSPORTATION
COORDINATION

Ex. Ord. No. 13330, Feb. 24, 2004, 69 F.R. 9185, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, and to enhance access to transportation to improve mobility, employment opportunities, and access to community services for persons who are transportation-disadvantaged, it is hereby ordered as follows:

SECTION 1. This order is issued consistent with the following findings and principles:

(a) A strong America depends on citizens who are productive and who actively participate in the life of their communities.

(b) Transportation plays a critical role in providing access to employment, medical and health care, education, and other community services and amenities. The importance of this role is underscored by the variety of transportation programs that have been created in conjunction with health and human service programs, and by the significant Federal investment in accessible public transportation systems throughout the Nation.

(c) These transportation resources, however, are often difficult for citizens to understand and access, and are more costly than necessary due to inconsistent and unnecessary Federal and State program rules and restrictions.

(d) A broad range of Federal program funding allows for the purchase or provision of transportation services and resources for persons who are transportation-disadvantaged. Yet, in too many communities, these services and resources are fragmented, unused, or altogether unavailable.

(e) Federally assisted community transportation services should be seamless, comprehensive, and accessible to those who rely on them for their lives and livelihoods. For persons with mobility limitations related to advanced age, persons with disabilities, and persons struggling for self-sufficiency, transportation within and between our communities should be as available and affordable as possible.

(f) The development, implementation, and maintenance of responsive, comprehensive, coordinated community transportation systems is essential for persons with disabilities, persons with low incomes, and older

adults who rely on such transportation to fully participate in their communities.

SEC. 2. *Definitions.* (a) As used in this order, the term “agency” means an executive department or agency of the Federal Government.

(b) For the purposes of this order, persons who are transportation-disadvantaged are persons who qualify for Federally conducted or Federally assisted transportation-related programs or services due to disability, income, or advanced age.

SEC. 3. *Establishment of the Interagency Transportation Coordinating Council on Access and Mobility.* (a) There is hereby established, within the Department of Transportation for administrative purposes, the “Interagency Transportation Coordinating Council on Access and Mobility” (“Interagency Transportation Coordinating Council” or “Council”). The membership of the Interagency Transportation Coordinating Council shall consist of:

(i) the Secretaries of Transportation, Health and Human Services, Education, Labor, Veterans Affairs, Agriculture, Housing and Urban Development, and the Interior, the Attorney General, and the Commissioner of Social Security; and

(ii) such other Federal officials as the Chairperson of the Council may designate.

(b) The Secretary of Transportation, or the Secretary’s designee, shall serve as the Chairperson of the Council. The Chairperson shall convene and preside at meetings of the Council, determine its agenda, direct its work, and, as appropriate to particular subject matters, establish and direct subgroups of the Council, which shall consist exclusively of the Council’s members.

(c) A member of the Council may designate any person who is part of the member’s agency and who is an officer appointed by the President or a full-time employee serving in a position with pay equal to or greater than the minimum rate payable for GS–15 of the General Schedule to perform functions of the Council or its subgroups on the member’s behalf.

SEC. 4. *Functions of the Interagency Transportation Coordinating Council.* The Interagency Transportation Coordinating Council shall:

(a) promote interagency cooperation and the establishment of appropriate mechanisms to minimize duplication and overlap of Federal programs and services so that transportation-disadvantaged persons have access to more transportation services;

(b) facilitate access to the most appropriate, cost-effective transportation services within existing resources;

(c) encourage enhanced customer access to the variety of transportation and resources available;

(d) formulate and implement administrative, policy, and procedural mechanisms that enhance transportation services at all levels; and

(e) develop and implement a method for monitoring progress on achieving the goals of this order.

SEC. 5. *Report.* In performing its functions, the Interagency Transportation Coordinating Council shall present to me a report not later than 1 calendar year from the date of this order. The report shall:

(a) Identify those Federal, State, Tribal and local laws, regulations, procedures, and actions that have proven to be most useful and appropriate in coordinating transportation services for the targeted populations;

(b) Identify substantive and procedural requirements of transportation-related Federal laws and regulations that are duplicative or restrict the laws’ and regulations’ most efficient operation;

(c) Describe the results achieved, on an agency and program basis, in: (i) simplifying access to transportation services for persons with disabilities, persons with low income, and older adults; (ii) providing the most appropriate, cost-effective transportation services within existing resources; and (iii) reducing duplication to make funds available for more services to more such persons;

(d) Provide recommendations to simplify and coordinate applicable substantive, procedural, and administrative requirements; and

(e) Provide any other recommendations that would, in the judgment of the Council, advance the principles set forth in section 1 of this order.

SEC. 6. *General.* (a) Agencies shall assist the Inter-agency Transportation Coordinating Council and provide information to the Council consistent with applicable law as may be necessary to carry out its functions. To the extent permitted by law, and as permitted by available agency resources, the Department of Transportation shall provide funding and administrative support for the Council.

(b) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(c) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

§ 102. Department of Transportation

(a) The Department of Transportation is an executive department of the United States Government at the seat of Government.

(b) The head of the Department is the Secretary of Transportation. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of Transportation appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) acts for the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has an Under Secretary of Transportation for Policy appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall provide leadership in the development of policy for the Department, supervise the policy activities of Assistant Secretaries with primary responsibility for aviation, international, and other transportation policy development and carry out other powers and duties prescribed by the Secretary. The Under Secretary acts for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant.

(e) The Department has 4 Assistant Secretaries and a General Counsel appointed by the President, by and with the advice and consent of the Senate. The Department also has an Assistant Secretary of Transportation for Administration appointed in the competitive service by the Secretary, with the approval of the President. They shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary or the General Counsel, in the order prescribed by the Secretary, acts for the Secretary when the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are absent or unable to serve, or when the of-

fices of the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are vacant.

(f) DEPUTY ASSISTANT SECRETARY FOR TRIBAL GOVERNMENT AFFAIRS.—

(1) ESTABLISHMENT.—In accordance with Federal policies promoting Indian self determination, the Department of Transportation shall have, within the office of the Secretary, a Deputy Assistant Secretary for Tribal Government Affairs appointed by the President to plan, coordinate, and implement the Department of Transportation policy and programs serving Indian tribes and tribal organizations and to coordinate tribal transportation programs and activities in all offices and administrations of the Department and to be a participant in any negotiated rulemaking relating to, or having an impact on, projects, programs, or funding associated with the tribal transportation program.

(2) RESERVATION OF TRUST OBLIGATIONS.—

(A) RESPONSIBILITY OF SECRETARY.—In carrying out this title, the Secretary shall be responsible to exercise the trust obligations of the United States to Indians and Indian tribes to ensure that the rights of a tribe or individual Indian are protected.

(B) PRESERVATION OF UNITED STATES RESPONSIBILITY.—Nothing in this title shall absolve the United States from any responsibility to Indians and Indian tribes, including responsibilities derived from the trust relationship and any treaty, executive order, or agreement between the United States and an Indian tribe.

(g) OFFICE OF CLIMATE CHANGE AND ENVIRONMENT.—

(1) ESTABLISHMENT.—There is established in the Department an Office of Climate Change and Environment to plan, coordinate, and implement—

(A) department-wide research, strategies, and actions under the Department's statutory authority to reduce transportation-related energy use and mitigate the effects of climate change; and

(B) department-wide research strategies and actions to address the impacts of climate change on transportation systems and infrastructure.

(2) CLEARINGHOUSE.—The Office shall establish a clearinghouse of solutions, including cost-effective congestion reduction approaches, to reduce air pollution and transportation-related energy use and mitigate the effects of climate change.

(h) The Department shall have a seal that shall be judicially recognized.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2414; Pub. L. 98-557, §26(a), Oct. 30, 1984, 98 Stat. 2873; Pub. L. 103-272, §4(j)(1), July 5, 1994, 108 Stat. 1365; Pub. L. 107-295, title II, §215(a), (c), Nov. 25, 2002, 116 Stat. 2101, 2102; Pub. L. 109-59, title I, §1119(l), Aug. 10, 2005, 119 Stat. 1189; Pub. L. 110-140, title XI, §1101(a), Dec. 19, 2007, 121 Stat. 1756.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
102(a)	49:1652(a) (1st sentence).	Oct. 15, 1966, Pub. L. 89-670, §3(a), (c), (d), 80 Stat. 931.
102(b)	49:1652(a) (less 1st sentence).	
102(c)	49:1652(b) (less words between parentheses).	Oct. 15, 1966, Pub. L. 89-670, §3(b), 80 Stat. 931; Oct. 28, 1974, Pub. L. 93-496, §16(a), 88 Stat. 1533.
102(d)	49:1652(b) (words between parentheses), (c), (d).	
102(e)	49:1657(k).	Oct. 15, 1966, Pub. L. 89-670, §9(k), 80 Stat. 946.

In subsection (a), the words “There is hereby established” and “to be known as” are omitted as executed. The words “(hereafter referred to in this chapter as the ‘Department’)” are omitted as unnecessary because of the style used in codifying the revised title. The words “of the United States Government” are added for clarity.

In subsection (b), the words “(hereafter referred to in this chapter as the ‘Secretary’)” are omitted as unnecessary because of the style used in codifying the revised title.

In subsection (c), the words “carry out duties and powers” and “acts for” are substituted for “act for and exercise the powers of” and “perform such functions, powers, and duties”, respectively, for consistency and to eliminate surplus words. The words “unable to serve” are substituted for “disability” for consistency and clarity.

In subsection (d), the words “in the competitive service” are substituted for “under the classified civil service” to conform to 5:2102. The words “from time to time” are omitted as surplus. The words “acts for” are substituted for “act for, and exercise the powers of” for consistency and to eliminate surplus words. The words “when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant” are substituted for “during the absence or disability of the Deputy Secretary, or in the event of a vacancy in the office of a Deputy Secretary” as being more precise and for consistency.

In subsection (e), the words “The Secretary shall cause a . . . of office” and “of such device” are omitted as unnecessary because of the restatement. The words “as he shall approve” are omitted as unnecessary because subsection (b) of the section establishes the Secretary of Transportation as the head of the Department of Transportation.

AMENDMENTS

2007—Subsecs. (g), (h). Pub. L. 110-140 added subsec. (g) and redesignated former subsec. (g) as (h).

2005—Subsecs. (f), (g). Pub. L. 109-59, which directed amendment of this section by adding subsec. (f) and redesignating former subsecs. (f) and (g) as (g) and (h), respectively, was executed by adding subsec. (f) and redesignating former subsec. (f) as (g), to reflect the probable intent of Congress. See 2002 Amendment note below.

2002—Subsec. (d). Pub. L. 107-295, §215(a)(2), added subsec. (d). Former subsec. (d) redesignated (g).

Subsec. (e). Pub. L. 107-295, §215(a)(3), which directed the substitution of “Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy” for “Secretary and the Deputy Secretary” each place it appears in last sentence, was executed by making substitution for “Secretary and the Deputy Secretary” before “are absent” and for “Secretary and Deputy Secretary” before “are vacant”, to reflect the probable intent of Congress.

Subsec. (g). Pub. L. 107-295, §215(c), struck out subsec. (g) which read as follows: “The Department has an Associate Deputy Secretary appointed by the President, by and with the advice and consent of the Senate. The Associate Deputy Secretary shall carry out powers and duties prescribed by the Secretary.”

Pub. L. 107-295, §215(a)(1), redesignated subsec. (d) as (g).

1994—Subsecs. (e), (f). Pub. L. 103-272 redesignated subsec. (e), relating to judicial recognition of Department seal, as (f).

1984—Subsecs. (d), (e). Pub. L. 98-557 added subsec. (d) and redesignated former subsec. (d), relating to Assistant Secretaries and General Counsel, as (e).

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-295, title II, §215(c), Nov. 25, 2002, 116 Stat. 2102, provided that the amendment to this section made by section 215(c) is effective on the date that an individual is appointed to the position of Under Secretary of Transportation for Policy under subsection (d) of this section. On Mar. 19, 2003, the United States Senate confirmed the appointment of the first Under Secretary of Transportation for Policy.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

COORDINATION

Pub. L. 110-140, title XI, §1101(b), Dec. 19, 2007, 121 Stat. 1756, provided that: “The Office of Climate Change and Environment of the Department of Transportation shall coordinate its activities with the United States Global Change Research Program.”

NOTICE

Pub. L. 109-59, title V, §5510, Aug. 10, 2005, 119 Stat. 1828, provided that:

“(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title [see Tables for classification] or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations, Transportation and Infrastructure, and Science [now Science, Space, and Technology] of the House of Representatives and the Committees on Appropriations and Environment and Public Works of the Senate, notice of that action shall be concurrently provided to the Committee of Transportation and Infrastructure and the Committee on Science [now Committee on Science, Space, and Technology] of the House of Representatives and the Committee on Environment and Public Works of the Senate.

“(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department [of Transportation] for which funds are authorized by this title or the amendments made by this title, the Secretary [of Transportation] shall provide notice of the reorganization to the Committees on Transportation and Infrastructure and Science [now Science, Space, and Technology] of the House of Representatives and the Committee on Environment and Public Works of the Senate.”

Pub. L. 105-178, title V, §5003, June 9, 1998, 112 Stat. 422, provided that:

“(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title [see Tables for classification] or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committee on Transportation and Infrastructure and the

Committee on Science [now Committee on Science, Space, and Technology] of the House of Representatives and the Committee on Environment and Public Works of the Senate.

“(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of such reorganization to the Committee on Transportation and Infrastructure and the Committee on Science [now Committee on Science, Space, and Technology] of the House of Representatives and the Committee on Environment and Public Works of the Senate.”

SURFACE TRANSPORTATION ADMINISTRATION

Pub. L. 102-240, title V, §5004, Dec. 18, 1991, 105 Stat. 2160, provided that:

“(a) STUDY.—Not later than 60 days after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall enter into an agreement with the National Academy of Public Administration to continue a study of options for organizing the Department of Transportation to increase the effectiveness of program delivery, reduce costs, and improve intermodal coordination among surface transportation-related agencies.

“(b) REPORT.—The Secretary shall report to Congress on the findings of the study continued under subsection (a) and recommend appropriate organizational changes no later than January 1, 1993. No organizational changes shall be implemented until such changes are approved by law.”

PERSON HOLDING POSITION OF ASSOCIATE DEPUTY SECRETARY UNTIL APRIL 15, 1985

Section 26(c) of Pub. L. 98-557 provided that: “Notwithstanding any other provision of law, until April 15, 1985, the position created by subsection (a) of this section [adding subsec. (d) of this section] may be held by a person named by the President alone from among qualified individuals.”

EX. ORD. NO. 11340. EFFECTIVE DATE

Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, provided: By virtue of the authority vested in me as President of the United States by Section 15 [renumbered section 16] of the Department of Transportation Act (Public Law 89-670, approved October 15, 1966; 80 Stat. 950) April 1, 1967, is hereby prescribed as the date on which the Department of Transportation Act shall take effect.

LYNDON B. JOHNSON.

§ 103. Federal Railroad Administration

(a) IN GENERAL.—The Federal Railroad Administration is an administration in the Department of Transportation.

(b) SAFETY.—To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.

(c) SAFETY AS HIGHEST PRIORITY.—In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in railroad transportation.

(d) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an

individual with professional experience in railroad safety, hazardous materials safety, or other transportation safety. The Administrator shall report directly to the Secretary of Transportation.

(e) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(f) CHIEF SAFETY OFFICER.—The Administration shall have an Associate Administrator for Railroad Safety appointed in the career service by the Secretary. The Associate Administrator shall be the Chief Safety Officer of the Administration. The Associate Administrator shall carry out the duties and powers prescribed by the Administrator.

(g) DUTIES AND POWERS OF THE ADMINISTRATOR.—The Administrator shall carry out—

(1) duties and powers related to railroad safety vested in the Secretary by section 20134(c) and chapters 203 through 211 of this title, and by chapter 213 of this title for carrying out chapters 203 through 211;

(2) the duties and powers related to railroad policy and development under subsection (j); and

(3) other duties and powers prescribed by the Secretary.

(h) LIMITATION.—A duty or power specified in subsection (g)(1) may be transferred to another part of the Department of Transportation or another Federal Government entity only when specifically provided by law. A decision of the Administrator in carrying out the duties or powers of the Administration and involving notice and hearing required by law is administratively final.

(i) AUTHORITIES.—Subject to the provisions of subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, the Secretary of Transportation may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions at the Administration. The authority of the Secretary granted by this subsection shall be carried out by the Administrator. Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subsection shall be effective, except as provided for in appropriations Acts.

(j) ADDITIONAL DUTIES OF THE ADMINISTRATOR.—The Administrator shall—

(1) provide assistance to States in developing State rail plans prepared under chapter 227 and review all State rail plans submitted under that section;¹

(2) develop a long-range national rail plan that is consistent with approved State rail plans and the rail needs of the Nation, as de-

¹ So in original. Probably should be “chapter;”.

terminated by the Secretary in order to promote an integrated, cohesive, efficient, and optimized national rail system for the movement of goods and people;

(3) develop a preliminary national rail plan within a year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008;

(4) develop and enhance partnerships with the freight and passenger railroad industry, States, and the public concerning rail development;

(5) support rail intermodal development and high-speed rail development, including high speed rail planning;

(6) ensure that programs and initiatives developed under this section benefit the public and work toward achieving regional and national transportation goals; and

(7) facilitate and coordinate efforts to assist freight and passenger rail carriers, transit agencies and authorities, municipalities, and States in passenger-freight service integration on shared rights of way by providing neutral assistance at the joint request of affected rail service providers and infrastructure owners relating to operations and capacity analysis, capital requirements, operating costs, and other research and planning related to corridors shared by passenger or commuter rail service and freight rail operations.

(k) PERFORMANCE GOALS AND REPORTS.—

(1) PERFORMANCE GOALS.—In conjunction with the objectives established and activities undertaken under subsection (j) of this section, the Administrator shall develop a schedule for achieving specific, measurable performance goals.

(2) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each goal and the additional duties required under subsection (j).

(3) SUBMISSION WITH PRESIDENT’S BUDGET.—Beginning with fiscal year 2010 and each fiscal year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, at the same time as the President’s budget submission, the Administration’s performance goals and schedule developed under paragraph (1), including an assessment of the progress of the Administration toward achieving its performance goals.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2414; Pub. L. 98–216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(1), July 5, 1994, 108 Stat. 1375; Pub. L. 103–440, title II, §216, Nov. 2, 1994, 108 Stat. 4624; Pub. L. 107–217, §3(n)(1), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 110–432, div. A, title I, §101, div. B, title III, §307, Oct. 16, 2008, 122 Stat. 4851, 4953; Pub. L. 111–350, §5(o)(1), Jan. 4, 2011, 124 Stat. 3853.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
103(a)	49:1652(e)(1) (1st sentence related to FRA). 49:1652a.	Oct. 15, 1966, Pub. L. 89–670, §§3(e) (related to FRA) (1), (3), (4), 6(D)(3)(C) (related to FRA), 80 Stat. 932, 940. July 8, 1976, Pub. L. 94–348, §6, 90 Stat. 820.
103(b)	49:1652(e) (related to FRA) (1) (2d, last sentences), (3) (last sentence).	
103(c)	49:1655(f)(3)(A). 49:1652(e)(3) (related to FRA) (less last sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(D)(3)(A), 80 Stat. 940; Aug. 22, 1972, Pub. L. 92–401, §6, 86 Stat. 617; Jan. 3, 1975, Pub. L. 93–633, §113(e)(1), 88 Stat. 2163.
103(d)	49:1652(e)(4) (related to FRA). 49:1655(f)(3)(C) (related to FRA).	

In subsection (a), the words “To carry out” are substituted for “for purposes of administering and enforcing” in 49:1652a for consistency and to eliminate surplus words. The words “under those laws” are substituted for “pursuant to Federal railroad safety laws” to eliminate surplus words. The words “is responsible” are substituted for “shall retain full and final responsibility” and “shall be responsible” to eliminate surplus words. The words “and for the establishment of all policies with respect to implementation of such laws” are omitted as surplus.

In subsection (b), the words “Each of these components” are omitted as surplus.

In subsection (c), the words “vested in the Secretary” are substituted for “as set forth in the statutes transferred to the Secretary” in 49:1655(f)(3)(A) for clarity and consistency. The words “section 6(e)(1), (2), and (6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e)(1), (2), and (6)(A))” are substituted for “subsection (e) of this section (other than subsection (e)(4) of this section)” in 49:1655(f)(3)(A) for clarity.

In subsection (d), the word “law” is substituted for “statute” in 49:1652(e)(4) for consistency. The words after “administratively final” in 49:1655(f)(3)(C) are omitted as unnecessary because of the restatement of the revised title and those laws giving a right to appeal.

PUB. L. 103–272

Section 5(m)(1) amends 49:103(c)(1) to include a reference to section 20134(c) of the revised title. The reference is included because 45:445 on which section 20134(c) is based provides that the duties and powers under that provision are to be carried out by the Administrator of the Federal Railroad Administration rather than the Secretary of Transportation.

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (j)(3), is the date of enactment of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2011—Subsec. (i). Pub. L. 111–350, which directed substitution of “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)” in subsec. (e), was executed to subsec. (i), to reflect the probable intent of Congress.

2008—Subsec. (a). Pub. L. 110–432, §307(1), (2), inserted heading and struck out at end “To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8

safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.”

Subsecs. (b) to (k). Pub. L. 110-432, §§101, 307(3), (4), added subsecs. (b) to (k) and struck out former subsecs. (b) to (e), which related to: in subsec. (b), Administrator as head of the Administration; in subsec. (c), Administrator’s duties and powers; in subsec. (d), transfer of duties or powers and effect of Administrator’s decision; and, in subsec. (e), authority of Secretary of Transportation.

2002—Subsec. (e). Pub. L. 107-217 inserted “subtitle I of title 40 and title III of” before “the Federal Property” and substituted “(41 U.S.C. 251 et seq.)” for “(40 U.S.C. 471 et seq.)”.

1994—Subsec. (c)(1). Pub. L. 103-272 substituted “section 20134(c) and chapters 203-211 of this title, and chapter 213 of this title in carrying out chapters 203-211” for “section 6(e)(1), (2), and (6)(A) of the Department of Transportation Act (49 App. U.S.C. 1655(e)(1), (2), and (6)(A))”.

Subsec. (e). Pub. L. 103-440 added subsec. (e).

1984—Subsec. (c)(1). Pub. L. 98-216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

UPDATE OF FEDERAL RAILROAD ADMINISTRATION’S WEBSITE

Pub. L. 110-432, div. A, title III, §307, Oct. 16, 2008, 122 Stat. 4881, provided that:

“(a) IN GENERAL.—The Secretary shall update the Federal Railroad Administration’s public website to better facilitate the ability of the public, including those individuals who are not regular users of the public website, to find current information regarding the Federal Railroad Administration’s activities.

“(b) PUBLIC REPORTING OF VIOLATIONS.—On the Federal Railroad Administration’s public website’s home page, the Secretary shall provide a mechanism for the public to submit written reports of potential violations of Federal railroad safety and hazardous materials transportation laws, regulations, and orders to the Federal Railroad Administration.”

[For definitions of “Secretary” and “railroad”, as used in section 307 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.]

FUNDS FOR BROADBAND HIGH SPEED INTERNET SERVICE CONNECTION FOR FEDERAL RAILROAD ADMINISTRATION EMPLOYEES

Pub. L. 108-447, div. H, title I, §151, Dec. 8, 2004, 118 Stat. 3222, provided that: “Notwithstanding any provisions of this or any other Act, during the fiscal year ending September 30, 2005, and hereafter, the Federal Railroad Administration may use funds appropriated by this or any other Act to provide for the installation of a broadband high speed internet service connection, including necessary equipment, for Federal Railroad Administration employees, and to either pay directly recurring monthly charges or to reimburse a percentage of such monthly charges which are paid by such employees: *Provided*, That the Federal Railroad Administration certifies that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency’s mission.”

§ 104. Federal Highway Administration

(a) The Federal Highway Administration is an administration in the Department of Transportation.

(b)(1) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

(2) The Administration has a Deputy Federal Highway Administrator who is appointed by the

Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(3) The Administration has an Assistant Federal Highway Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator is the chief engineer of the Administration. The Assistant Administrator shall carry out duties and powers prescribed by the Administrator.

(c) The Administrator shall carry out—

(1) duties and powers vested in the Secretary by chapter 4 of title 23 for highway safety programs, research, and development related to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety; and

(2) additional duties and powers prescribed by the Secretary.

(d) Notwithstanding the provisions of sections 101(d) and 144 of title 23, highway bridges determined to be unreasonable obstructions to navigation under the Truman-Hobbs Act may be funded from amounts set aside from the discretionary bridge program. The Secretary shall transfer these allocations and the responsibility for administration of these funds to the United States Coast Guard.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2415; Pub. L. 103-272, §§4(j)(2), 5(m)(2), July 5, 1994, 108 Stat. 1365, 1375; Pub. L. 104-324, title I, §101(b)(1), Oct. 19, 1996, 110 Stat. 3905; Pub. L. 106-159, title I, §101(c)(2), Dec. 9, 1999, 113 Stat. 1751.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
104(a)	49:1652(e)(1) (1st sentence related to FHWA).	Oct. 15, 1966, Pub. L. 89-670, §§3(e) (related to FHWA) (1), (3), (4), 6(f)(3)(C) (related to FHWA), 80 Stat. 932, 940.
104(b)(1)	49:1652(e) (related to FHWA) (1) (less 1st sentence), (3) (last sentence).	
104(b)(2)	23:303(a)(1) (1st, 2d sentences).	
104(b)(3)	23:303(a)(1) (last sentence), (b), (c).	
104(c)	49:1655(f)(3)(B). 23:401 (note). 49:1652(e)(3) (related to FHWA) (less last sentence).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(3)(B), 80 Stat. 940; Jan. 3, 1975, Pub. L. 93-633, §113(e)(2), 88 Stat. 2163; Sept. 9, 1966, Pub. L. 89-564, §201(b)(1), 80 Stat. 735; Oct. 15, 1966, Pub. L. 89-670, §8(h), 80 Stat. 943; restated Dec. 31, 1970, Pub. L. 91-605, §202(a), 84 Stat. 1740.
104(d)	49:1652(e)(4) (related to FHWA). 49:1655(f)(3)(C) (related to FHWA).	

In subsection (b)(1), the words “Each of these components” are omitted as surplus.

In subsection (b)(2), the words “In addition to the Administrator of the Federal Highway Administration authorized by section 3(e) of the Department of Transportation Act” in 23:303(a)(1) (1st sentence) are omitted as surplus.

In subsection (b)(3), the words “in the competitive service” are substituted for “under the classified civil

service” to conform to 5:2102. The text of 23:303(b), (c) is omitted as unnecessary because sections 322 and 323 of the revised title restate the authority of the Secretary of Transportation.

In subsection (c), the source provisions are consolidated. The words “The Administrator shall carry out duties and powers” are substituted for “The Secretary shall carry out through the Federal Highway Administration those provisions of the Highway Safety Act of 1966 . . . for” in 23:401 (note) and “carry out the functions, powers, and duties of the Secretary” in 49:1655(f)(3)(B) as being more precise, to eliminate unnecessary words, and for consistency. The words “vested in the Secretary” are substituted for “as set forth in the statutes transferred to the Secretary” in 49:1655(f)(3)(B) for clarity and consistency.

In subsection (d), the word “law” is substituted for “statute” in 49:1652(e)(4) for consistency. The words after “administratively final” in 49:1655(f)(3)(C) are omitted as unnecessary because of the restatement of the revised title and those laws giving the right to appeal.

REFERENCES IN TEXT

The Truman-Hobbs Act, referred to in subsec. (d), is act June 21, 1940, ch. 409, 54 Stat. 497, as amended, also known as the Hobbs Bridge Act, which is classified generally to subchapter II (§511 et seq.) of chapter 11 of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1999—Subsec. (c). Pub. L. 106–159, §101(c)(2)(A), substituted “; and” for the semicolon at end of par. (1), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: “duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of this title; and”.

Subsecs. (d), (e). Pub. L. 106–159, §101(c)(2)(B), (C), redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: “A duty or power specified by subsection (c)(2) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.”

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

1994—Subsec. (b)(1). Pub. L. 103–272, §4(j)(2), substituted “Administrator” for “Admininstrator” before “who is”.

Subsec. (c)(2). Pub. L. 103–272, §5(m)(2), substituted “315” for “31”.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–159, title I, §107(a), Dec. 9, 1999, 113 Stat. 1758, provided that: “This Act [see Tables for classification] shall take effect on the date of the enactment of this Act [Dec. 9, 1999]; except that the amendments made by section 101 [enacting section 113 of this title and amending this section, sections 5314 and 5316 of Title 5, Government Organization and Employees, and section 104 of Title 23, Highways] shall take effect on January 1, 2000.”

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ELIMINATION OF REGIONAL OFFICE RESPONSIBILITIES

Pub. L. 105–178, title I, §1220, June 9, 1998, 112 Stat. 221, provided that:

“(a) IN GENERAL.—

“(1) ELIMINATION.—The Secretary [of Transportation] shall eliminate any programmatic decision-making responsibility of the regional offices of the Federal Highway Administration for the Federal-aid highway program as part of the Administration’s efforts to restructure its field organization.

“(2) ACTIVITIES.—In carrying out paragraph (1), the Secretary shall eliminate regional offices, create technical resource centers, and, to the maximum extent practicable, delegate authority to State offices of the Federal Highway Administration.

“(b) PREFERENCE.—In locating the technical resource centers, the Secretary shall give preference to cities that house, on the date of enactment of this Act [June 9, 1998], the Federal Highway Administration regional offices and are in locations that minimize the travel distance between the technical resource centers and the Federal Highway Administration division offices that will be served by the new technical resource centers.

“(c) REPORT TO CONGRESS.—The Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a detailed implementation plan to carry out this section not later than September 30, 1998, and thereafter provide periodic progress reports on carrying out this section to such Committees.

“(d) IMPLEMENTATION.—The Secretary shall begin implementation of the plan transmitted under subsection (c) not later than December 31, 1998.”

§ 105. National Highway Traffic Safety Administration

(a) The National Highway Traffic Safety Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administration has a Deputy Administrator who is appointed by the Secretary of Transportation, with the approval of the President.

(c) The Administrator shall carry out—

(1) duties and powers vested in the Secretary by chapter 4 of title 23, except those related to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety; and

(2) additional duties and powers prescribed by the Secretary.

(d) The Secretary may carry out chapter 301 of this title through the Administrator.

(e) The Administrator shall consult with the Federal Highway Administrator on all matters related to the design, construction, maintenance, and operation of highways.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2415; Pub. L. 103–272, §5(m)(3), July 5, 1994, 108 Stat. 1375.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
105	23:401 (note).	Sept. 9, 1966, Pub. L. 89–564, §201(a) (less pay of Administrator and Deputy Administrator), (b)(2), (c), (d), 80 Stat. 735; Oct. 15, 1966, Pub. L. 89–670, §8(h), 80 Stat. 943; restated Dec. 31, 1970, Pub. L. 91–605, §202(a), 84 Stat. 1739.

In subsection (a), the words “The . . . is an administration in the” are substituted for “There is hereby established within the”, in section 201(a) (1st sentence) of the Highway Safety Act of 1966 (Pub. L. 89-564, 80 Stat. 731) to conform to other sections of the revised title. The words “(hereafter in this section referred to as the ‘Administration’)” are omitted as unnecessary.

In subsection (c), the words “carry out . . . duties and powers . . . prescribed by the Secretary” are substituted for “perform such duties as are delegated to him by the Secretary” to eliminate surplus words and for consistency. The list of excepted programs in clause (1) is substituted for “highway safety programs, research and development not specifically referred to in paragraph (1) of this subsection”, in section 201(b)(2) of the Highway Safety Act of 1966 for clarity.

In subsection (d), the words “Administration . . . authorized by this section” are omitted as surplus.

The text of section 201(d) of the Highway Safety Act of 1966 is omitted as executed.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103-272 substituted “chapter 301 of this title” for “the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.)”.

§ 106. Federal Aviation Administration

(a) The Federal Aviation Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator. The Administration has a Deputy Administrator. They are appointed by the President, by and with the advice and consent of the Senate. When making an appointment, the President shall consider the fitness of the individual to carry out efficiently the duties and powers of the office. Except as provided in subsection (f) or in other provisions of law, the Administrator reports directly to the Secretary of Transportation. The term of office for any individual appointed as Administrator after August 23, 1994, shall be 5 years.

(c) The Administrator must—

- (1) be a citizen of the United States;
- (2) be a civilian; and
- (3) have experience in a field directly related to aviation.

(d)(1) The Deputy Administrator must be a citizen of the United States and have experience in a field directly related to aviation. An officer on active duty in an armed force may be appointed as Deputy Administrator. However, if the Administrator is a former regular officer of an armed force, the Deputy Administrator may not be an officer on active duty in an armed force, a retired regular officer of an armed force, or a former regular officer of an armed force.

(2) The annual rate of basic pay of the Deputy Administrator shall be set by the Secretary but shall not exceed the annual rate of basic pay payable to the Administrator of the Federal Aviation Administration.

(3) An officer on active duty or a retired officer serving as Deputy Administrator is entitled to hold a rank and grade not lower than that held when appointed as Deputy Administrator. The Deputy Administrator may elect to receive (A) the pay provided by law for the Deputy Administrator, or (B) the pay and allowances or the retired pay of the military grade held. If the Deputy Administrator elects to receive the military pay and allowances or retired pay, the Ad-

ministration shall reimburse the appropriate military department from funds available for the expenses of the Administration.

(4) The appointment and service of a member of the armed forces as a Deputy Administrator does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from the status, office, rank, or grade. The Secretary of a military department does not control the member when the member is carrying out duties and powers of the Deputy Administrator.

(e) The Administrator and the Deputy Administrator may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.

(f) AUTHORITY OF THE SECRETARY AND THE ADMINISTRATOR.—

(1) AUTHORITY OF THE SECRETARY.—Except as provided in paragraph (2), the Secretary of Transportation shall carry out the duties and powers, and controls the personnel and activities, of the Administration. Neither the Secretary nor the Administrator may submit decisions for the approval of, or be bound by the decisions or recommendations of, a committee, board, or organization established by executive order.

(2) AUTHORITY OF THE ADMINISTRATOR.—The Administrator—

(A) is the final authority for carrying out all functions, powers, and duties of the Administration relating to—

(i) the appointment and employment of all officers and employees of the Administration (other than Presidential and political appointees);

(ii) the acquisition and maintenance of property, services, and equipment of the Administration;

(iii) except as otherwise provided in paragraph (3), the promulgation of regulations, rules, orders, circulars, bulletins, and other official publications of the Administration; and

(iv) any obligation imposed on the Administrator, or power conferred on the Administrator, by the Air Traffic Management System Performance Improvement Act of 1996 (or any amendment made by that Act);

(B) shall offer advice and counsel to the President with respect to the appointment and qualifications of any officer or employee of the Administration to be appointed by the President or as a political appointee;

(C) may delegate, and authorize successive redelegations of, to an officer or employee of the Administration any function, power, or duty conferred upon the Administrator, unless such delegation is prohibited by law; and

(D) except as otherwise provided for in this title, and notwithstanding any other provision of law, shall not be required to coordinate, submit for approval or concurrence, or seek the advice or views of the Secretary or any other officer or employee of the Department of Transportation on any matter with respect to which the Administrator is the final authority.

(3) REGULATIONS.—

(A) IN GENERAL.—In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to issue, rescind, and revise such regulations as are necessary to carry out those functions. The issuance of such regulations shall be governed by the provisions of chapter 5 of title 5. The Administrator shall act upon all petitions for rulemaking no later than 6 months after the date such petitions are filed by dismissing such petitions, by informing the petitioner of an intention to dismiss, or by issuing a notice of proposed rulemaking or advanced notice of proposed rulemaking. The Administrator shall issue a final regulation, or take other final action, not later than 16 months after the last day of the public comment period for the regulations or, in the case of an advanced notice of proposed rulemaking, if issued, not later than 24 months after the date of publication in the Federal Register of notice of the proposed rulemaking. On February 1 and August 1 of each year the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a letter listing each deadline the Administrator missed under this subparagraph during the 6-month period ending on such date, including an explanation for missing the deadline and a projected date on which the action that was subject to the deadline will be taken.

(B) APPROVAL OF SECRETARY OF TRANSPORTATION.—(i) The Administrator may not issue a proposed regulation or final regulation that is likely to result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$250,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century) in any year, or any regulation which is significant, unless the Secretary of Transportation approves the issuance of the regulation in advance. For purposes of this paragraph, a regulation is significant if the Administrator, in consultation with the Secretary (as appropriate), determines that the regulation is likely to—

(I) have an annual effect on the economy of \$250,000,000 or more or adversely affect in a substantial and material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; or

(II) raise novel or significant legal or policy issues arising out of legal mandates that may substantially and materially affect other transportation modes.

(ii) In an emergency, the Administrator may issue a regulation described in clause (i) without prior approval by the Secretary, but any such emergency regulation is subject to ratification by the Secretary after it is issued and shall be rescinded by the Adminis-

trator within 5 days (excluding Saturdays, Sundays, and legal public holidays) after issuance if the Secretary fails to ratify its issuance.

(iii) Any regulation that does not meet the criteria of clause (i), and any regulation or other action that is a routine or frequent action or a procedural action, may be issued by the Administrator without review or approval by the Secretary.

(iv) The Administrator shall submit a copy of any regulation requiring approval by the Secretary under clause (i) to the Secretary, who shall either approve it or return it to the Administrator with comments within 45 days after receiving it.

(C) PERIODIC REVIEW.—(i) Beginning on the date which is 3 years after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall review any unusually burdensome regulation issued by the Administrator after such date of enactment beginning not later than 3 years after the effective date of the regulation to determine if the cost assumptions were accurate, the benefit of the regulations, and the need to continue such regulations in force in their present form.

(ii) The Administrator may identify for review under the criteria set forth in clause (i) unusually burdensome regulations that were issued before the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and that have been in force for more than 3 years.

(iii) For purposes of this subparagraph, the term “unusually burdensome regulation” means any regulation that results in the annual expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$25,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Air Traffic Management System Performance Act of 1996) in any year.

(iv) The periodic review of regulations may be performed by advisory committees and the Management Advisory Council established under subsection (p).

(4) DEFINITION OF POLITICAL APPOINTEE.—For purposes of this subsection, the term “political appointee” means any individual who—

(A) is employed in a position listed in sections 5312 through 5316 of title 5 (relating to the Executive Schedule);

(B) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5; or

(C) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(g) DUTIES AND POWERS OF ADMINISTRATOR.—(1) Except as provided in paragraph (2) of this subsection, the Administrator shall carry out—

(A) duties and powers of the Secretary of Transportation under subsection (f) of this

section related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous material) and stated in sections 308(b), 1132(c) and (d), 40101(c), 40103(b), 40106(a), 40108, 40109(b), 40113(a), 40113(c), 40113(d), 40113(e), 40114(a), and 40119, chapter 445 (except sections 44501(b), 44502(a)(2), 44502(a)(3), 44502(a)(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a), 44718(b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections 46104, 46301(d) and (h)(2), 46303(c), 46304–46308, 46310, 46311, and 46313–46316, chapter 465, and sections 47504(b) (related to flight procedures), 47508(a), and 48107 of this title; and

(B) additional duties and powers prescribed by the Secretary of Transportation.

(2) In carrying out sections 40119, 44901, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, 44938(a) and (b), and 48107 of this title, paragraph (1)(A) of this subsection does not apply to duties and powers vested in the Director of Intelligence and Security by section 44931¹ of this title.

(h) Section 40101(d) of this title applies to duties and powers specified in subsection (g)(1) of this section. Any of those duties and powers may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers is administratively final.

(i) The Deputy Administrator shall carry out duties and powers prescribed by the Administrator. The Deputy Administrator acts for the Administrator when the Administrator is absent or unable to serve, or when the office of the Administrator is vacant.

(j) There is established within the Federal Aviation Administration an institute to conduct civil aeromedical research under section 44507 of this title. Such institute shall be known as the “Civil Aeromedical Institute”. Research conducted by the institute should take appropriate advantage of capabilities of other government agencies, universities, or the private sector.

(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

(1) SALARIES, OPERATIONS, AND MAINTENANCE.—There is authorized to be appropriated to the Secretary of Transportation for salaries, operations, and maintenance of the Administration—

(A) \$7,591,000,000 for fiscal year 2004;

(B) \$7,732,000,000 for fiscal year 2005;

(C) \$7,889,000,000 for fiscal year 2006;

(D) \$8,064,000,000 for fiscal year 2007;

(E) \$9,042,467,000 for fiscal year 2009;

(F) \$9,350,028,000 for fiscal year 2010;

(G) \$9,514,000,000 for fiscal year 2011; and

(H) \$3,197,315,080 for the period beginning on October 1, 2011, and ending on January 31, 2012.

Such sums shall remain available until expended.

(2) AUTHORIZED EXPENDITURES.—Out of amounts appropriated under paragraph (1), the following expenditures are authorized:

(A) Such sums as may be necessary for fiscal years 2004 through 2007 to support infrastructure systems development for both general aviation and the vertical flight industry.

(B) Such sums as may be necessary for fiscal years 2004 through 2007 to establish helicopter approach procedures using current technologies (such as the Global Positioning System) to support all-weather, emergency medical service for trauma patients.

(C) Such sums as may be necessary for fiscal years 2004 through 2007 to revise existing terminal and en route procedures and instrument flight rules to facilitate the takeoff, flight, and landing of tiltrotor aircraft and to improve the national airspace system by separating such aircraft from congested flight paths of fixed-wing aircraft.

(D) Such sums as may be necessary for fiscal years 2004 through 2007 for the Center for Management Development of the Federal Aviation Administration to operate training courses and to support associated student travel for both residential and field courses.

(E) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out and expand the Air Traffic Control Collegiate Training Initiative.

(F) Such sums as may be necessary for fiscal years 2004 through 2007 for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska’s main aviation corridors.

(G) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out the Aviation Safety Reporting System.

(l) PERSONNEL AND SERVICES.—

(1) OFFICERS AND EMPLOYEES.—Except as provided in subsections (a) and (g) of section 40122, the Administrator is authorized, in the performance of the functions of the Administrator, to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. In fixing compensation and benefits of officers and employees, the Administrator shall not engage in any type of bargaining, except to the extent provided for in section 40122(a), nor shall the Administrator be bound by any requirement to establish such compensation or benefits at particular levels.

(2) EXPERTS AND CONSULTANTS.—The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5.

(3) TRANSPORTATION AND PER DIEM EXPENSES.—The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5.

(4) USE OF PERSONNEL FROM OTHER AGENCIES.—The Administrator is authorized to utilize the services of personnel of any other Federal agency (as such term is defined under section 551(1) of title 5).

¹ See References in Text note below.

(5) VOLUNTARY SERVICES.—

(A) GENERAL RULE.—In exercising the authority to accept gifts and voluntary services under section 326 of this title, and without regard to section 1342 of title 31, the Administrator may not accept voluntary and uncompensated services if such services are used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) INCIDENTAL EXPENSES.—The Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence, for volunteers who provide voluntary services under this subsection.

(C) LIMITED TREATMENT AS FEDERAL EMPLOYEES.—An individual who provides voluntary services under this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, relating to compensation for work injuries, and chapter 171 of title 28, relating to tort claims.

(6) CONTRACTS.—The Administrator is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, cooperative agreements, and other transactions with any Federal agency (as such term is defined in section 551(1) of title 5) or any instrumentality of the United States, any State, territory, or possession, or political subdivision thereof, any other governmental entity, or any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate.

(m) COOPERATION BY ADMINISTRATOR.—With the consent of appropriate officials, the Administrator may, with or without reimbursement, use or accept the services, equipment, personnel, and facilities of any other Federal agency (as such term is defined in section 551(1) of title 5) and any other public or private entity. The Administrator may also cooperate with appropriate officials of other public and private agencies and instrumentalities concerning the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies, personnel, services, and equipment other than administrative supplies or equipment.

(n) ACQUISITION.—

(1) IN GENERAL.—The Administrator is authorized—

(A) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(i) air traffic control facilities and equipment;

(ii) research and testing sites and facilities; and

(iii) such other real and personal property (including office space and patents), or any interest therein, within and outside the continental United States as the Administrator considers necessary;

(B) to lease to others such real and personal property; and

(C) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at the installations of the Administration, and to acquire, operate, and maintain equipment for these facilities.

(2) TITLE.—Title to any property or interest therein acquired pursuant to this subsection shall be held by the Government of the United States.

(o) TRANSFERS OF FUNDS.—The Administrator is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions transferred by law to the Administrator or functions transferred pursuant to law to the Administrator on or after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996.

(p) MANAGEMENT ADVISORY COUNCIL AND AIR TRAFFIC SERVICES BOARD.—

(1) ESTABLISHMENT.—Within 3 months after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall establish an advisory council which shall be known as the Federal Aviation Management Advisory Council (in this subsection referred to as the “Council”). With respect to Administration management, policy, spending, funding, and regulatory matters affecting the aviation industry, the Council may submit comments, recommended modifications, and dissenting views to the Administrator. The Administrator shall include in any submission to Congress, the Secretary, or the general public, and in any submission for publication in the Federal Register, a description of the comments, recommended modifications, and dissenting views received from the Council, together with the reasons for any differences between the views of the Council and the views or actions of the Administrator.

(2) MEMBERSHIP.—The Council shall consist of 13 members, who shall consist of—

(A) a designee of the Secretary of Transportation;

(B) a designee of the Secretary of Defense;

(C) 10 members representing aviation interests, appointed by—

(i) in the case of initial appointments to the Council, the President by and with the advice and consent of the Senate, except that initial appointments made after May 1, 2003, shall be made by the Secretary of Transportation; and

(ii) in the case of subsequent appointments to the Council, the Secretary of Transportation; and

(D) 1 member appointed, from among individuals who are the leaders of their respec-

tive unions of air traffic control system employees, by the Secretary of Transportation.

(3) QUALIFICATIONS.—No officer or employee of the United States Government may be appointed to the Council under paragraph (2)(C) or to the Air Traffic Services Committee.

(4) FUNCTIONS.—

(A) IN GENERAL.—(i) The Council shall provide advice and counsel to the Administrator on issues which affect or are affected by the operations of the Administrator. The Council shall function as an oversight resource for management, policy, spending, and regulatory matters under the jurisdiction of the Administration.

(ii) The Council shall review the rule-making cost-benefit analysis process and develop recommendations to improve the analysis and ensure that the public interest is fully protected.

(iii) The Council shall review the process through which the Administration determines to use advisory circulars and service bulletins.

(B) MEETINGS.—The Council shall meet on a regular and periodic basis or at the call of the chairman or of the Administrator.

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

(5) FEDERAL ADVISORY COMMITTEE ACT NOT TO APPLY.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Council, the Air Traffic Services Committee, or such aviation rulemaking committees as the Administrator shall designate.

(6) ADMINISTRATIVE MATTERS.—

(A) TERMS OF MEMBERS APPOINTED UNDER PARAGRAPH (2)(C).—Members of the Council appointed under paragraph (2)(C) shall be appointed for a term of 3 years. Of the members first appointed by the President under paragraph (2)(C)—

(i) 3 shall be appointed for terms of 1 year;

(ii) 4 shall be appointed for terms of 2 years; and

(iii) 3 shall be appointed for terms of 3 years.

(B) TERM FOR AIR TRAFFIC CONTROL REPRESENTATIVE.—The member appointed under paragraph (2)(D) shall be appointed for a term of 3 years, except that the term of such individual shall end whenever the individual no longer meets the requirements of paragraph (2)(D).

(C) TERMS FOR AIR TRAFFIC SERVICES COMMITTEE MEMBERS.—The members appointed to the Air Traffic Services Committee shall be appointed for a term of 5 years, except that the first members of the Committee shall be the members of the Air Traffic Services Subcommittee of the Council on the day before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act who shall serve in an advisory capacity until such time as the President appoints the members of the Committee under paragraph (7).

(D) REAPPOINTMENT.—An individual may not be appointed to the Committee to more than two 5-year terms.

(E) VACANCY.—Any vacancy on the Council or Committee shall be filled in the same manner as the original appointment, except that any vacancy caused by a member appointed by the President under paragraph (2)(C)(i) shall be filled by the Secretary in accordance with paragraph (2)(C)(ii). Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed for the remainder of that term.

(F) CONTINUATION IN OFFICE.—A member of the Council or Committee whose term expires shall continue to serve until the date on which the member’s successor takes office.

(G) REMOVAL.—Any member of the Council appointed under paragraph (2)(D) may be removed for cause by the President or Secretary whoever makes the appointment. Any member of the Committee may be removed for cause by the Secretary.

(H) CLAIMS AGAINST MEMBERS OF COMMITTEE.—

(i) IN GENERAL.—A member appointed to the Committee shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member of the Committee.

(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

(I) to affect any other immunity or protection that may be available to a member of the Subcommittee under applicable law with respect to such transactions;

(II) to affect any other right or remedy against the United States under applicable law; or

(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

(I) ETHICAL CONSIDERATIONS.—

(i) FINANCIAL DISCLOSURE.—During the entire period that an individual is serving as a member of the Committee, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act; except that section 101(d) of such Act shall

apply without regard to the number of days of service in the position.

(ii) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, an individual who is a member of the Committee shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Committee; except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

(J) CHAIRMAN; VICE CHAIRMAN.—The Council shall elect a chair and a vice chair from among the members appointed under paragraph (2)(C), each of whom shall serve for a term of 1 year. The vice chair shall perform the duties of the chairman in the absence of the chairman.

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

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

(7) AIR TRAFFIC SERVICES COMMITTEE.—

(A) ESTABLISHMENT.—The Administrator shall establish a committee that is independent of the Council by converting the Air Traffic Services Subcommittee of the Council, as in effect on the day before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, into such committee. The committee shall be known as the Air Traffic Services Committee (in this subsection referred to as the “Committee”).

(B) MEMBERSHIP AND QUALIFICATIONS.—Subject to paragraph (6)(C), the Committee shall consist of five members, one of whom shall be the Administrator and shall serve as chairperson. The remaining members shall be appointed by the President with the advice and consent of the Senate and—

(i) shall have a fiduciary responsibility to represent the public interest;

(ii) shall be citizens of the United States; and

(iii) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in all of the following areas:

(I) Management of large service organizations.

(II) Customer service.

(III) Management of large procurements.

(IV) Information and communications technology.

(V) Organizational development.

(VI) Labor relations.

(C) PROHIBITIONS ON MEMBERS OF COMMITTEE.—No member of the Committee may—

(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

(ii) engage in another business related to aviation or aeronautics; or

(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.

(D) GENERAL RESPONSIBILITIES.—

(i) OVERSIGHT.—The Committee shall oversee the administration, management, conduct, direction, and supervision of the air traffic control system.

(ii) CONFIDENTIALITY.—The Committee shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

(E) SPECIFIC RESPONSIBILITIES.—The Committee shall have the following specific responsibilities:

(i) STRATEGIC PLANS.—To review, approve, and monitor the strategic plan for the air traffic control system, including the establishment of—

(I) a mission and objectives;

(II) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

(III) annual and long-range strategic plans.

(ii) MODERNIZATION AND IMPROVEMENT.—To review and approve—

(I) methods to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control; and

(II) procurements of air traffic control equipment in excess of \$100,000,000.

(iii) OPERATIONAL PLANS.—To review the operational functions of the air traffic control system, including—

(I) plans for modernization of the air traffic control system;

(II) plans for increasing productivity or implementing cost-saving measures; and

(III) plans for training and education.

(iv) MANAGEMENT.—To—

(I) review and approve the Administrator’s appointment of a Chief Operating Officer under section 106(r);

(II) review the Administrator’s selection, evaluation, and compensation of senior executives of the Administration who have program management responsibility over significant functions of the air traffic control system;

(III) review and approve the Administrator’s plans for any major reorganization of the Administration that would impact on the management of the air traffic control system;

(IV) review and approve the Administrator's cost accounting and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation; and

(V) review the performance and compensation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets.

(v) BUDGET.—To—

(I) review and make recommendations on the budget request of the Administration related to the air traffic control system prepared by the Administrator;

(II) submit such budget recommendations to the Secretary; and

(III) base such budget recommendations on the annual and long-range strategic plans.

(F) COMMITTEE PERSONNEL MATTERS AND EXPENSES.—

(i) PERSONNEL MATTERS.—The Committee may appoint and terminate for purposes of employment by the Committee any personnel that may be necessary to enable the Committee to perform its duties, and may procure temporary and intermittent services under section 40122.

(ii) TRAVEL EXPENSES.—Each member of the Committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(G) ADMINISTRATIVE MATTERS.—

(i) POWERS OF CHAIR.—Except as otherwise provided by a majority vote of the Committee, the powers of the chairperson shall include—

(I) establishing committees;

(II) setting meeting places and times;

(III) establishing meeting agendas; and

(IV) developing rules for the conduct of business.

(ii) MEETINGS.—The Committee shall meet at least quarterly and at such other times as the chairperson determines appropriate.

(iii) QUORUM.—Three members of the Committee shall constitute a quorum. A majority of members present and voting shall be required for the Committee to take action.

(H) REPORTS.—

(i) ANNUAL.—The Committee shall each year report with respect to the conduct of its responsibilities under this title to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(ii) ADDITIONAL REPORT.—If a determination by the Committee under subparagraph (D)(i) that the organization and operation of the air traffic control system are not allowing the Administration to carry out its mission, the Committee shall report such

determination to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(iii) ACTION OF ADMINISTRATOR ON REPORT.—Not later than 60 days after the date of a report of the Committee under this subparagraph, the Administrator shall take action with respect to such report. If the Administrator overturns a recommendation of the Committee, the Administrator shall report such action to the President, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(iv) COMPTROLLER GENERAL'S REPORT.—Not later than April 30, 2003, the Comptroller General of the United States shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the success of the Committee in improving the performance of the air traffic control system.

(I) AUTHORIZATION.—There are authorized to be appropriated to the Committee such sums as may be necessary for the Committee to carry out its activities.

(8) AIR TRAFFIC CONTROL SYSTEM DEFINED.—In this section, the term "air traffic control system" has the meaning such term has under section 40102(a).

(q) AIRCRAFT NOISE OMBUDSMAN.—

(1) ESTABLISHMENT.—There shall be in the Administration an Aircraft Noise Ombudsman.

(2) GENERAL DUTIES AND RESPONSIBILITIES.—The Ombudsman shall—

(A) be appointed by the Administrator;

(B) serve as a liaison with the public on issues regarding aircraft noise; and

(C) be consulted when the Administration proposes changes in aircraft routes so as to minimize any increases in aircraft noise over populated areas.

(3) NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES.—The appointment of an Ombudsman under this subsection shall not result in an increase in the number of full-time equivalent employees in the Administration.

(r) CHIEF OPERATING OFFICER.—

(1) IN GENERAL.—

(A) APPOINTMENT.—There shall be a Chief Operating Officer for the air traffic control system to be appointed by the Administrator, with the approval of the Air Traffic Services Committee. The Chief Operating Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

(B) QUALIFICATIONS.—The Chief Operating Officer shall have a demonstrated ability in management and knowledge of or experience in aviation.

(C) TERM.—The Chief Operating Officer shall be appointed for a term of 5 years.

(D) REMOVAL.—The Chief Operating Officer shall serve at the pleasure of the Administrator, except that the Administrator shall make every effort to ensure stability and continuity in the leadership of the air traffic control system.

(E) VACANCY.—Any individual appointed to fill a vacancy in the position of Chief Operating Officer occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

(2) COMPENSATION.—

(A) IN GENERAL.—The Chief Operating Officer shall be paid at an annual rate of basic pay to be determined by the Administrator, with the approval of the Air Traffic Services Committee. The annual rate may not exceed the annual compensation paid under section 102 of title 3. The Chief Operating Officer shall be subject to the post-employment provisions of section 207 of title 18 as if the position of Chief Operating Officer were described in section 207(c)(2)(A)(i) of that title.

(B) BONUS.—In addition to the annual rate of basic pay authorized by subparagraph (A), the Chief Operating Officer may receive a bonus for any calendar year not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the Chief Operating Officer's performance in relation to the performance goals set forth in the performance agreement described in paragraph (3).

(3) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief Operating Officer, in consultation with the Air Traffic Services Committee, shall enter into an annual performance agreement that sets forth measurable organization and individual goals for the Chief Operating Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis.

(4) ANNUAL PERFORMANCE REPORT.—The Chief Operating Officer shall prepare and transmit to the Secretary of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate an annual management report containing such information as may be prescribed by the Secretary.

(5) RESPONSIBILITIES.—The Administrator may delegate to the Chief Operating Officer, or any other authority within the Administration responsibilities, including the following:

(A) STRATEGIC PLANS.—To implement the strategic plan of the Administration for the air traffic control system in order to further—

- (i) a mission and objectives;
- (ii) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity;
- (iii) annual and long-range strategic plans; and
- (iv) methods of the Administration to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control.

(B) OPERATIONS.—To oversee the day-to-day operational functions of the Administration for air traffic control, including—

- (i) modernization of the air traffic control system;
- (ii) increasing productivity or implementing cost-saving measures;
- (iii) training and education; and
- (iv) the management of cost-reimbursable contracts.

(C) BUDGET.—To—

- (i) develop a budget request of the Administration related to the air traffic control system;
- (ii) submit such budget request to the Administrator and the Committee; and
- (iii) ensure that the budget request supports the agency's annual and long-range strategic plans for air traffic control services.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2416; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 100-591, §5(a), Nov. 3, 1988, 102 Stat. 3013; Pub. L. 101-508, title IX, §9106, Nov. 5, 1990, 104 Stat. 1388-355; Pub. L. 101-604, title I, §101(c), Nov. 16, 1990, 104 Stat. 3068; Pub. L. 102-581, title I, §104, Oct. 31, 1992, 106 Stat. 4877; Pub. L. 103-272, §§4(j)(3), 5(m)(4), July 5, 1994, 108 Stat. 1365, 1375; Pub. L. 103-305, title I, §103, title II, §201, Aug. 23, 1994, 108 Stat. 1571, 1581; Pub. L. 104-264, title I, §103(a), title II, §§223(a), 224-230, 276(c), title XII, §1210, Oct. 9, 1996, 110 Stat. 3216, 3229-3234, 3282; Pub. L. 104-287, §5(1), Oct. 11, 1996, 110 Stat. 3388; Pub. L. 105-102, §3(c)(3), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106-6, §4, Mar. 31, 1999, 113 Stat. 10; Pub. L. 106-181, title I, §103(a), title III, §§302(a)-(c), 303, 305, 306, 307(c)(1), title VII, §701, Apr. 5, 2000, 114 Stat. 66, 115-118, 121, 123, 124, 126, 154; Pub. L. 106-528, §8(a), Nov. 22, 2000, 114 Stat. 2522; Pub. L. 107-71, title I, §101(c)(3), (d), Nov. 19, 2001, 115 Stat. 602, 603; Pub. L. 108-176, title I, §103(a),(b), title II, §§201-204, 224(c), Dec. 12, 2003, 117 Stat. 2495, 2496, 2522-2526, 2528; Pub. L. 110-330, §6, Sept. 30, 2008, 122 Stat. 3719; Pub. L. 111-12, §6, Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111-69, §6, Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111-116, §6, Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111-153, §6, Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111-161, §6, Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111-197, §6, July 2, 2010, 124 Stat. 1354; Pub. L. 111-216, title I, §105, Aug. 1, 2010, 124 Stat. 2350; Pub. L. 112-30, title II, §206, Sept. 16, 2011, 125 Stat. 359.)

HISTORICAL AND REVISION NOTES

PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
106(a)	49:1341(a) (1st sentence). 49:1652(e)(1) (related to FAA).	Aug. 23, 1958, Pub. L. 85-726, §§301(a), (b), 302(a), (b), 72 Stat. 744; Aug. 14, 1964, Pub. L. 88-426, §305(16) (B), (C), 78 Stat. 424. Oct. 15, 1966, Pub. L. 89-670, §3(e) (related to FAA), 80 Stat. 932.
106(b)	49:1341(a) (2d sentence), (b) (1st sentence less 1st-10th words). 49:1342(a) (1st sentence), (b) (1st sentence less 1st-11th words).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 97-449

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
106(c)	49:1652(e) (related to FAA) (1) (less 1st sentence), (3) (last sentence). 49:1341(b) (1st sentence 1st-10th words, 2d sentence). 49:1652(e)(2) (related to Administrator).	
106(d)	49:1342(b) (1st sentence 1st-11th words, 2d sentence, 4th-6th sentences). 49:1652(e)(2) (1st sentence less Administrator). 49:1343(a)(2) (related to Deputy Administrator).	Aug. 23, 1958, Pub. L. 85-726, §302(c)(2) (related to Deputy Administrator), 72 Stat. 745.
106(e)	49:1341(b) (less 1st, 2d sentences). 49:1342(b) (3d sentence).	
106(f)	49:1341(a) (less 1st, 2d sentences).	
106(g)	49:1652(e)(3) (related to FAA) (less last sentence). 49:1655(c)(1) (1st sentence proviso).	Oct. 15, 1966, Pub. L. 89-670, §6(c)(1) (1st sentence proviso, 2d, last sentences), 80 Stat. 938; Jan. 3, 1975, Pub. L. 93-633, §113(d), 88 Stat. 2163.
106(h)	49:1652(e)(4) (related to FAA). 49:1655(c)(1) (2d, last sentences).	
106(i)	49:1342(a) (2d, last sentences).	

In subsections (a) and (b), the source provisions are combined for clarity.

In subsection (a), the words “referred to in this chapter as the ‘Administration’” are omitted because of the style of the revised title.

In subsection (b), the word “due” in 49:1342(b) (1st sentence less 1st-11th words) is omitted as surplus. The words “the duties and powers” are substituted for “the powers and duties vested in and imposed upon him by this chapter” to eliminate surplus words and for consistency. The word “consider” is substituted for “with . . . regard to” for clarity.

In subsections (c) and (d), the words “At the time of his nomination” are omitted as unnecessary and for consistency.

In subsection (c), the text of 49:1652(e)(2) (last sentence) is omitted as executed.

In subsection (d)(1), the words “Nothing in this chapter or other law shall preclude” in 49:1342(b) (4th sentence) are omitted as unnecessary because of the positive statement of authority. The words “armed force” are substituted for “armed services” to conform to title 10. The words “to the position of” are omitted as surplus.

In subsection (d)(2), the word “continue” is omitted as surplus. The words “pay provided by law for the Deputy Administrator” are substituted for “compensation provided for the Deputy Administrator” in 49:1342(b) because the pay provisions were repealed and replaced by 5:5315. The words “(including personal money allowance)” are omitted as being within the meaning of “allowance” in title 37. The words “as the case may be” are omitted as surplus. The words “of the military grade held” are substituted for “military . . . payable to a commissioned officer of his grade and length of service” to eliminate unnecessary words. The words “Administration” and “military” are added for clarity. The words “to defray” are omitted as surplus.

In subsection (d)(3), the words “acceptance of, and” are omitted as unnecessary. The word “held” is sub-

stituted for “may occupy or hold” to eliminate unnecessary words. The words “right or benefit” are substituted for “emolument, perquisite, right, privilege, or benefit” to eliminate unnecessary words. The words “incident to or” before “arising” are omitted as surplus.

In subsection (f), the word “Secretary” is substituted for “Administrator” because of the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words “In the exercise of his duties and the discharge of his responsibilities under this chapter” are omitted as surplus.

In subsection (g), the words “are hereby transferred to” in 49:1655(c)(1) are omitted as executed. The words “carry out” are substituted for “it shall be his duty to exercise” in 49:1655(c)(1) for clarity, consistency, and to eliminate surplus words. The words “In addition to such functions, powers, and duties as are specified in this chapter” in 49:1652(e)(3) are omitted as unnecessary because of the restatement.

In subsection (h), the first sentence is substituted for 49:1655(c)(1) (2d sentence) for clarity and consistency. The word “law” is substituted for “statute” in 49:1652(e)(4) for consistency. The words “carrying out” in 49:1655(c)(1) (last sentence) are substituted for “the exercise of” for consistency. The words after “administratively final” are omitted as unnecessary because of the restatement of the revised title and those laws giving a right of appeal.

In subsection (i), the words “and exercise the powers of” are omitted as surplus. The words “when the office of the Administrator is vacant” are inserted to conform to section 102 of the revised title.

PUB. L. 103-272

Section 4(j)(3)(B) amends 49:106(g) to list the duties and powers of the Secretary of Transportation that the Administrator of the Federal Aviation Administration carries out. The duties and powers are derived from 2 sources. Some were transferred by former 49 App.:1655(c)(1), restated as 49:106 in section 1 of the Act of January 12, 1983 (Public Law 97-449, 96 Stat. 2417). The others are from laws enacted after October 15, 1966, in which the duties and powers are to be carried out by the Administrator rather than the Secretary.

REFERENCES IN TEXT

The Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (f)(2)(A)(iv), is title II of Pub. L. 104-264, Oct. 9, 1996, 110 Stat. 3227. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 40101 of this title and Tables.

The date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (f)(3)(B)(i), is the date of enactment of Pub. L. 106-181, which was approved Apr. 5, 2000.

The date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsecs. (f)(3)(C), (o), and (p)(1), is the date of enactment of Pub. L. 104-264, which was approved Oct. 9, 1996.

Section 44931 of this title, referred to in subsec. (g)(2), was repealed by Pub. L. 107-71, title I, §101(f)(6), Nov. 19, 2001, 115 Stat. 603.

The Federal Advisory Committee Act, referred to in subsec. (p)(5), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of enactment of the Vision 100—Century of Aviation Reauthorization Act, referred to in subsec. (p)(6)(C), (7)(A), is the date of enactment of Pub. L. 108-176, which was approved Dec. 12, 2003.

The Ethics in Government Act of 1978, referred to in subsec. (p)(6)(I)(i), is Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1824. Title I of the Act is set out in the Appendix to Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see

Short Title note set out under section 101 of Pub. L. 95-521 in the Appendix to Title 5 and Tables.

AMENDMENTS

2011—Subsec. (k)(1)(G), (H). Pub. L. 112-30 added subpars. (G) and (H).

2010—Subsec. (k)(1)(F). Pub. L. 111-216 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “\$7,813,037,096 for the period beginning on October 1, 2009, and ending on August 1, 2010.”

Pub. L. 111-197 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “\$7,070,158,159 for the period beginning on October 1, 2009, and ending on July 3, 2010.”

Pub. L. 111-161 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “\$5,454,183,000 for the 7-month period beginning on October 1, 2009.”

Pub. L. 111-153 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “\$4,676,574,750 for the 6-month period beginning on October 1, 2009.”

2009—Subsec. (k)(1)(E). Pub. L. 111-12 substituted “\$9,042,467,000 for fiscal year 2009” for “\$4,516,364,500 for the 6-month period beginning on October 1, 2008”.

Subsec. (k)(1)(F). Pub. L. 111-116 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “\$2,338,287,375 for the 3-month period beginning on October 1, 2009.”

Subsec. (k)(1)(F). Pub. L. 111-69 added subpar. (F).

2008—Subsec. (k)(1)(E). Pub. L. 110-330 added subpar. (E).

2003—Subsec. (d)(2) to (4). Pub. L. 108-176, §204, added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (f)(2)(A)(ii). Pub. L. 108-176, §224(c), inserted “, services,” after “property”.

Subsec. (k)(1). Pub. L. 108-176, §103(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

“(1) IN GENERAL.—There is authorized to be appropriated to the Secretary of Transportation for operations of the Administration—

“(A) such sums as may be necessary for fiscal year 2000;

“(B) \$6,592,235,000 for fiscal year 2001;

“(C) \$6,886,000,000 for fiscal year 2002; and

“(D) \$7,357,000,000 for fiscal year 2003.

Such sums shall remain available until expended.”

Subsec. (k)(2). Pub. L. 108-176, §103(b), redesignated subpars. (C) to (E) as subpars. (A) to (C), respectively, in subpars. (A) to (C), substituted “fiscal years 2004 through 2007” for “fiscal years 2000 through 2003”, added subpars. (D) to (G), struck out former subpars. (A) and (B), which related to expenditures for wildlife measures and a university consortium for an air safety and security management certificate program, and struck out former subpars. (F) to (I), which related to expenditures for the 1998 airport surface operations safety action plan, United States membership obligations in the International Civil Aviation Organization, additional inspectors to enhance air cargo security programs, and improved training programs for airport security screening personnel.

Subsec. (p). Pub. L. 108-176, §201(1), inserted “and Air Traffic Services Board” after “Council” in heading.

Subsec. (p)(2). Pub. L. 108-176, §201(2)(A), substituted “consist of 13 members, who” for “consist of 18 members, who” in introductory provisions.

Subsec. (p)(2)(C)(i). Pub. L. 108-176, §201(2)(B), inserted “, except that initial appointments made after May 1, 2003, shall be made by the Secretary of Transportation” after “Senate”.

Subsec. (p)(2)(C)(ii). Pub. L. 108-176, §201(2)(C)(ii), substituted “; and” for semicolon at end.

Subsec. (p)(2)(D). Pub. L. 108-176, §201(2)(D), substituted “employees, by the Secretary of Transportation.” for “employees, by—

“(i) in the case of initial appointments to the Council, the President by and with the advice and consent of the Senate; and

“(ii) in the case of subsequent appointments to the Council, the Secretary of Transportation; and”.

Subsec. (p)(2)(E). Pub. L. 108-176, §201(2)(D), struck out subpar. (E) which read as follows: “5 members appointed by the Secretary after consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.”

Subsec. (p)(3). Pub. L. 108-176, §202(1), added par. (3) and struck out former par. (3) which related to qualifications for serving on the Council.

Subsec. (p)(4)(C). Pub. L. 108-176, §202(2), inserted “or Air Traffic Services Committee” after “Council” in two places.

Subsec. (p)(5). Pub. L. 108-176, §202(3), inserted “, the Air Traffic Services Committee,” after “Council”.

Subsec. (p)(6)(C). Pub. L. 108-176, §202(4), in heading substituted “committee” for “subcommittee” and in text substituted “members appointed” for “member appointed”, “to the Air Traffic Services Committee shall” for “under paragraph (2)(E) shall”, and “the first members of the Committee shall be the members of the Air Traffic Services Subcommittee of the Council on the day before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act who shall serve in an advisory capacity until such time as the President appoints the members of the Committee under paragraph (7).” for “of the members first appointed under paragraph (2)(E)—

“(i) 2 members shall be appointed for a term of 3 years;

“(ii) 2 members shall be appointed for a term of 4 years; and

“(iii) 1 member shall be appointed for a term of 5 years.”

Subsec. (p)(6)(D). Pub. L. 108-176, §202(5), substituted “to the Committee” for “under paragraph (2)(E)”.

Subsec. (p)(6)(E). Pub. L. 108-176, §202(6), inserted “or Committee” after “Council”.

Subsec. (p)(6)(F). Pub. L. 108-176, §202(7), inserted “of the Council or Committee” after “member”.

Subsec. (p)(6)(G). Pub. L. 108-176, §202(8), in second sentence substituted “Committee” for “Council” and struck out “appointed under paragraph (2)(E)” before “may be removed”.

Subsec. (p)(6)(H). Pub. L. 108-176, §202(9)(A), substituted “committee” for “subcommittee” in heading.

Subsec. (p)(6)(H)(i). Pub. L. 108-176, §202(9)(B), (C), substituted “to the Committee” for “under paragraph (2)(E)” and “of the Committee” for “of the Air Traffic Services Subcommittee”.

Subsec. (p)(6)(I)(i). Pub. L. 108-176, §202(10), substituted “is serving as” for “appointed under paragraph (2)(E) is” and “Committee” for “Subcommittee”.

Subsec. (p)(6)(I)(ii). Pub. L. 108-176, §202(11), substituted “who is a member of the Committee” for “appointed under paragraph (2)(E)” and “Committee;” for “Subcommittee;”.

Subsec. (p)(6)(K). Pub. L. 108-176, §202(12), inserted “or Committee” after “Council”.

Subsec. (p)(6)(L). Pub. L. 108-176, §202(13), inserted “or Committee” after “Council” in two places.

Subsec. (p)(7). Pub. L. 108-176, §202(14)(A), substituted “committee” for “subcommittee” in heading.

Subsec. (p)(7)(A). Pub. L. 108-176, §202(14)(B), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: “The Management Advisory Council shall have an air traffic services subcommittee (in this paragraph referred to as the ‘Subcommittee’) composed of the five members appointed under paragraph (2)(E).”

Subsec. (p)(7)(B), (C). Pub. L. 108-176, §202(14)(D), added subpars. (B) and (C). Former subpars. (B) and (C) redesignated (D) and (E), respectively.

Subsec. (p)(7)(D). Pub. L. 108-176, §202(14)(E), substituted “Committee” for “Subcommittee” in two places.

Pub. L. 108-176, §202(14)(C), redesignated subpar. (B) as (D). Former subpar. (D) redesignated (F).

Subsec. (p)(7)(E). Pub. L. 108-176, §202(14)(I), struck out concluding provisions which read as follows: “The

Secretary shall submit the budget request referred to in clause (v)(II) for any fiscal year to the President who shall transmit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President's annual budget request for the Federal Aviation Administration for such fiscal year."

Pub. L. 108-176, §202(14)(E), substituted "Committee" for "Subcommittee" in introductory provisions.

Pub. L. 108-176, §202(14)(C), redesignated subpar. (C) as (E). Former subpar. (E) redesignated (G).

Subsec. (p)(7)(E)(v)(I). Pub. L. 108-176, §202(14)(F), substituted "make recommendations on" for "approve".

Subsec. (p)(7)(E)(v)(II). Pub. L. 108-176, §202(14)(G), substituted "recommendations" for "request".

Subsec. (p)(7)(E)(v)(III). Pub. L. 108-176, §202(14)(H), substituted "base such budget recommendations on" for "ensure that the budget request supports".

Subsec. (p)(7)(F). Pub. L. 108-176, §202(14)(J), added subpar. (F) and struck out heading and text of former subpar. (F). Text read as follows:

"(i) COMPENSATION OF MEMBERS.—Each member of the Subcommittee shall be compensated at a rate of \$25,000 per year.

"(ii) COMPENSATION OF CHAIRPERSON.—Notwithstanding clause (i), the chairperson of the Subcommittee shall be compensated at a rate of \$40,000 per year.

"(iii) STAFF.—The chairperson of the Subcommittee may appoint and terminate any personnel that may be necessary to enable the Subcommittee to perform its duties.

"(iv) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the Subcommittee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code."

Pub. L. 108-176, §202(14)(C), redesignated subpar. (D) as (F). Former subpar. (F) redesignated (H).

Subsec. (p)(7)(G). Pub. L. 108-176, §202(14)(K), substituted "Committee" for "Subcommittee" wherever appearing, redesignated cls. (ii) to (iv) as (i) to (iii), respectively, and struck out former cl. (i) which read as follows: "TERM OF CHAIR.—The members of the Subcommittee shall elect for a 2-year term a chairperson from among the members of the Subcommittee."

Pub. L. 108-176, §202(14)(C), redesignated subpar. (E) as (G).

Subsec. (p)(7)(H). Pub. L. 108-176, §202(14)(C), redesignated subpar. (F) as (H).

Subsec. (p)(7)(H)(i). Pub. L. 108-176, §202(14)(L)(i), (ii), substituted "Committee shall" for "Subcommittee shall" and "Secretary" for "Administrator, the Council".

Subsec. (p)(7)(H)(ii). Pub. L. 108-176, §202(14)(L), substituted "Committee under" for "Subcommittee under", "subparagraph (D)(i)" for "subparagraph (B)(i)", "Committee shall" for "Subcommittee shall", and "Secretary" for "Administrator, the Council".

Subsec. (p)(7)(H)(iii), (iv). Pub. L. 108-176, §202(14)(L)(i), in cl. (iii) substituted "Committee under" for "Subcommittee under" and "Committee, the" for "Subcommittee, the" and in cl. (iv) substituted "Committee in" for "Subcommittee in".

Subsec. (p)(7)(I). Pub. L. 108-176, §202(14)(M), added subpar. (I).

Subsec. (r)(1)(A), (2)(A). Pub. L. 108-176, §203(1), substituted "Air Traffic Services Committee" for "Air Traffic Services Subcommittee of the Aviation Management Advisory Council".

Subsec. (r)(2)(B). Pub. L. 108-176, §203(2), inserted "in" before "paragraph (3)".

Subsec. (r)(3). Pub. L. 108-176, §203(3), substituted "Air Traffic Services Committee" for "Air Traffic Control Subcommittee of the Aviation Management Advisory Committee".

Subsec. (r)(4). Pub. L. 108-176, §203(4), substituted "Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transpor-

tation of the Senate" for "Transportation and Congress".

Subsec. (r)(5)(A). Pub. L. 108-176, §203(5), in introductory provisions substituted "implement the" for "develop a" and "in order to further" for "including the establishment of".

Subsec. (r)(5)(B). Pub. L. 108-176, §203(6)(A), substituted "oversee the day-to-day operational functions of the Administration for air traffic control," for "review the operational functions of the Administration," in introductory provisions.

Subsec. (r)(5)(B)(iv). Pub. L. 108-176, §203(6)(B)-(D), added cl. (iv).

Subsec. (r)(5)(C)(i). Pub. L. 108-176, §203(7), struck out "prepared by the Administrator" after "air traffic control system".

Subsec. (r)(5)(C)(ii). Pub. L. 108-176, §203(8), substituted "and the Committee" for "and the Secretary of Transportation".

Subsec. (r)(5)(C)(iii). Pub. L. 108-176, §203(9), inserted "agency's" before "annual" and substituted "for air traffic control services" for "developed under subparagraph (A) of this subsection".

2001—Subsec. (m). Pub. L. 107-71, §101(d), substituted "supplies, personnel, services, and" for "supplies and" in last sentence.

Subsec. (r)(2)(A). Pub. L. 107-71, §101(c)(3), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: "The Chief Operating Officer shall be paid at an annual rate of basic pay equal to the annual rate of basic pay of the Administrator. The Chief Operating Officer shall be subject to the post-employment provisions of section 207 of title 18 as if this position were described in section 207(c)(2)(A)(i) of that title."

2000—Subsec. (f)(3)(A). Pub. L. 106-181, §306, inserted at end "On February 1 and August 1 of each year the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a letter listing each deadline the Administrator missed under this subparagraph during the 6-month period ending on such date, including an explanation for missing the deadline and a projected date on which the action that was subject to the deadline will be taken."

Subsec. (f)(3)(B)(i). Pub. L. 106-181, §305(1), (2), in introductory provisions, substituted "\$250,000,000" for "\$100,000,000" and "Wendell H. Ford Aviation Investment and Reform Act for the 21st Century" for "Air Traffic Management System Performance Improvement Act of 1996".

Subsec. (f)(3)(B)(i)(I). Pub. L. 106-181, §305(1), (3), substituted "\$250,000,000" for "\$100,000,000" and inserted "substantial and" before "material" and "or" after semicolon at end.

Subsec. (f)(3)(B)(i)(II) to (IV). Pub. L. 106-181, §305(4), added subcl. (II) and struck out former subcls. (II) to (IV) which read as follows:

"(II) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

"(III) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

"(IV) raise novel legal or policy issues arising out of legal mandates."

Subsec. (g)(1)(A). Pub. L. 106-181, §701, substituted "40113(a), 40113(c), 40113(d), 40113(e), 40114(a), and 40119, chapter 445 (except sections 44501(b), 44502(a)(2), 44502(a)(3), 44502(a)(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a), 44718(b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907-44911, 44913, 44915, and 44931-44934), chapter 451, chapter 453, sections" for "40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b), and (c), 44504, 44505, 44507, 44508, 44511-44513, 44701-44716, 44718(c), 44721(a), 44901, 44902, 44903(a)-(c) and (e), 44906, 44912, 44935-44937, and 44938(a) and (b), chapter 451, sections 45302-45304,".

Subsec. (k). Pub. L. 106-181, §103(a), amended heading and text of subsec. (k) generally. Prior to amendment, text read as follows: "There is authorized to be appropriated to the Secretary of Transportation for operations of the Administration \$5,632,000,000 for fiscal year 1999."

Subsec. (l)(1). Pub. L. 106-181, §307(c)(1), substituted "subsections (a) and (g) of section 40122" for "section 40122(a) of this title and section 347 of Public Law 104-50".

Subsec. (p)(2). Pub. L. 106-528, which directed the substitution of "18" for "15" in section 106(p)(2), without specifying the Code title to be amended, was executed by making the substitution in the introductory provisions of subsec. (p)(2) of this section, to reflect the probable intent of Congress.

Subsec. (p)(2)(C) to (E). Pub. L. 106-181, §302(a)(1), added subpars. (C) to (E) and struck out former subpar. (C) which read as follows: "13 members representing aviation interests, appointed by the President by and with the advice and consent of the Senate."

Subsec. (p)(3). Pub. L. 106-181, §302(a)(2), designated existing provisions as subpar. (A), inserted subpar. heading, realigned margins, inserted "or (2)(E)" after "paragraph (2)(C)", and added subpars. (B) and (C).

Subsec. (p)(6). Pub. L. 106-181, §302(b), added subpars. (A) to (I), redesignated former subpars. (B) to (D) as (J) to (L), respectively, and struck out former subpar. (A) which related to terms of members appointed to the Advisory Council.

Subsec. (p)(7), (8). Pub. L. 106-181, §302(c), added pars. (7) and (8).

Subsec. (r). Pub. L. 106-181, §303, added subsec. (r).
1999—Subsec. (k). Pub. L. 106-6 substituted "\$5,632,000,000 for fiscal year 1999." for "\$5,158,000,000 for fiscal year 1997 and \$5,344,000,000 for fiscal year 1998."

1997—Subsec. (g)(1)(A). Pub. L. 105-102 added Pub. L. 104-264, §276(c). See 1996 Amendment note below.

1996—Subsec. (b). Pub. L. 104-287 substituted "August 23, 1994," for "the date of the enactment of this sentence".

Pub. L. 104-264, §223(a)(1), substituted "Except as provided in subsection (f) or in other provisions of law, the Administrator" for "The Administrator".

Subsec. (f). Pub. L. 104-264, §223(a)(2), inserted subsec. heading, designated existing provisions as par. (1), inserted par. (1) heading, substituted "Except as provided in paragraph (2), the Secretary" for "The Secretary", realigned margins, substituted "Neither the Secretary nor the Administrator may" for "The Secretary may not" and "or be bound" for "nor be bound", and added pars. (2) and (3).

Subsec. (f)(3). Pub. L. 104-264, §224(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (f)(4). Pub. L. 104-264, §224(1), redesignated par. (3) as (4).

Subsec. (g)(1)(A). Pub. L. 104-264, §276(c), as added by Pub. L. 105-102, substituted "45302-45304" for "45302, 45303".

Subsec. (k). Pub. L. 104-264, §103(a), substituted "\$5,158,000,000 for fiscal year 1997 and \$5,344,000,000 for fiscal year 1998." for "\$4,088,000,000 for fiscal year 1991, \$4,412,600,000 for fiscal year 1992, \$4,716,500,000 for fiscal year 1993, \$4,576,000,000 for fiscal year 1994, \$4,674,000,000 for fiscal year 1995, and \$4,810,000,000 for fiscal year 1996."

Subsec. (l). Pub. L. 104-264, §225, added subsec. (l).
Subsec. (l)(6). Pub. L. 104-264, §226, added par. (6).
Subsec. (m). Pub. L. 104-264, §227, added subsec. (m).
Subsec. (n). Pub. L. 104-264, §228, added subsec. (n).
Subsec. (o). Pub. L. 104-264, §229, added subsec. (o).
Subsec. (p). Pub. L. 104-264, §230, added subsec. (p).
Subsec. (q). Pub. L. 104-264, §1210, added subsec. (q).

1994—Subsec. (b). Pub. L. 103-305, §201, inserted at end "The term of office for any individual appointed as Administrator after the date of the enactment of this sentence shall be 5 years."

Subsec. (f). Pub. L. 103-272, §4(j)(3)(A), substituted "Secretary of Transportation shall" for "Secretary shall".

Subsec. (g). Pub. L. 103-272, §4(j)(3)(B), inserted heading and amended text generally. Prior to amendment, text read as follows: "The Administrator shall carry out—

"(1) duties and powers of the Secretary related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous materials) and vested in the Secretary by section 308(b) of this title and sections 306-309, 312-314, 315-316 (except for the duties and powers vested in the Director of Intelligence and Security by or under section 101 of the Aviation Security Improvement Act of 1990), 1101, 1105, and 1111 and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958 (49 App. U.S.C. 1347-1350, 1353-1355, 1421 et seq., 1441 et seq., 1471 et seq., 1501, 1505, 1511, and 1521 et seq.); and

"(2) additional duties and powers prescribed by the Secretary."

Subsec. (h). Pub. L. 103-272, §5(m)(4)(A), substituted "Section 40101(d) of this title" for "Section 103 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1303)".

Subsec. (j). Pub. L. 103-272, §5(m)(4)(B), substituted "section 44507 of this title" for "section 312(e) of the Federal Aviation Act of 1958".

Subsec. (k). Pub. L. 103-305, §103, substituted "\$4,576,000,000 for fiscal year 1994, \$4,674,000,000 for fiscal year 1995, and \$4,810,000,000 for fiscal year 1996" for "\$5,100,000,000 for fiscal year 1994, and \$5,520,000,000 for fiscal year 1995".

Pub. L. 103-272, §4(j)(3)(C), inserted "to the Secretary of Transportation" after "appropriated".

1992—Subsec. (k). Pub. L. 102-581 substituted "1991," for "1991 and" and inserted before period at end "\$4,716,500,000 for fiscal year 1993, \$5,100,000,000 for fiscal year 1994, and \$5,520,000,000 for fiscal year 1995".

1990—Subsec. (g)(1). Pub. L. 101-604 inserted "315-316 (except for the duties and powers vested in the Director of Intelligence and Security by or under section 101 of the Aviation Security Improvement Act of 1990)," after "312-314".

Subsec. (k). Pub. L. 101-508 added subsec. (k).

1988—Subsec. (j). Pub. L. 100-591 added subsec. (j).

1984—Subsecs. (g)(1), (h). Pub. L. 98-216 substituted "49 App. U.S.C." for "49 U.S.C.".

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-176, §3, Dec. 12, 2003, 117 Stat. 2493, provided that: "Except as otherwise specifically provided, this Act [see Tables for classification] and the amendments made by this Act shall apply only to fiscal years beginning after September 30, 2003."

EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106-528, §9, Nov. 22, 2000, 114 Stat. 2523, provided that: "Except as otherwise expressly provided, this Act [amending this section and sections 41104, 44903, 44935, and 44936 of this title, enacting provisions set out as notes under sections 40101, 44903, and 44936 of this title, and amending provisions set out as notes under sections 40128 and 47501 of this title] and the amendments made by this Act shall take effect 30 days after the date of enactment of this Act [Nov. 22, 2000]."

Pub. L. 106-181, §3, Apr. 5, 2000, 114 Stat. 64, provided that: "Except as otherwise specifically provided, this Act [see Tables for classification] and the amendments made by this Act shall apply only to fiscal years beginning after September 30, 1999."

Pub. L. 106-181, title III, §302(d), Apr. 5, 2000, 114 Stat. 121, provided that:

"(1) IN GENERAL.—The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Apr. 5, 2000].

"(2) INITIAL NOMINATIONS TO AIR TRAFFIC SERVICES SUBCOMMITTEE.—The Secretary [of Transportation] shall make the initial appointments of the Air Traffic Services Subcommittee of the Aviation Management Advisory Council not later than 3 months after the date of the enactment of this Act.

"(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF SUBCOMMITTEE.—Nothing in this section shall be construed

to invalidate the actions and authority of the Federal Aviation Administration prior to the appointment of the members of the Air Traffic Services Subcommittee.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(c), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(c)(3) is effective Oct. 9, 1996.

Pub. L. 105–102, §3(f), Nov. 20, 1997, 111 Stat. 2216, provided that: “The amendments made by subsections (a) through (d) of this section [amending this section and sections 5302, 30501 to 30504, 45301, 46301, 46316, 47117, and 47128 of this title, renumbering section 40121 of this title as 40124 of this title, and amending provisions set out as notes under sections 5303 and 47117 of this title] shall take effect as if included in the provisions of the Acts to which the amendments relate.”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 3 of Pub. L. 104–264 provided that:

“(a) IN GENERAL.—Except as otherwise specifically provided, this Act [see Tables for classification] and the amendments made by this Act apply only to fiscal years beginning after September 30, 1996.

“(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act or any amendment made by this Act shall be construed as affecting funds made available for a fiscal year ending before October 1, 1996.”

Section 203 of title II of Pub. L. 104–264 provided that: “The provisions of this title [enacting sections 40121, 40122, 45301, 45303, 48111, and 48201 of this title, amending this section and section 41742 of this title, renumbering section 45303 of this title as section 45304, repealing section 45301 of this title, and enacting provisions set out as notes under this section and sections 40101, 40110, and 41742 of this title] and the amendments made by this title shall take effect on the date that is 30 days after the date of the enactment of this Act [Oct. 9, 1996].”

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

FEDERAL AVIATION ADMINISTRATION SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM

Pub. L. 108–176, title VII, §702, Dec. 12, 2003, 117 Stat. 2576, provided that:

“(a)(1) The Administrator of the Federal Aviation Administration shall establish a Federal Aviation Administration Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Federal Aviation Administration.

“(2) Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act [42 U.S.C. 1885a, 1885b].

“(3) To carry out the Program the Administrator shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the Federal Aviation Administration, for the period described in subsection (f)(1), in positions needed by the Federal Aviation Administration and for which the individuals are qualified, in exchange for receiving a scholarship.

“(b) In order to be eligible to participate in the Program, an individual must—

“(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education, as

a junior or senior undergraduate or graduate student, in an academic field or discipline described in the list made available under subsection (d);

“(2) be a United States citizen or permanent resident; and

“(3) at the time of the initial scholarship award, not be an employee (as defined in section 2105 of title 5, United States Code).

“(c) An individual seeking a scholarship under this section shall submit an application to the Administrator at such time, in such manner, and containing such information, agreements, or assurances as the Administrator may require.

“(d) The Administrator shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized and shall update the list as necessary.

“(e)(1) The Administrator may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Administrator, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

“(2) An individual may not receive a scholarship under this section for more than 4 academic years, unless the Administrator grants a waiver.

“(3) The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Administrator, but shall in no case exceed the cost of attendance.

“(4) A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Administrator by regulation.

“(5) The Administrator may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

“(f)(1) The period of service for which an individual shall be obligated to serve as an employee of the Federal Aviation Administration is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

“(2)(A) Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

“(B) The Administrator may defer the obligation of an individual to provide a period of service under paragraph (1) if the Administrator determines that such a deferral is appropriate. The Administrator shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

“(g)(1) Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Administrator by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Administrator when determined to be necessary, as established by regulation.

“(2) Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Administrator pursuant to subsection (f)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

“(A) the total amount of scholarships received by such individual under this section; plus

“(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States, multiplied by 3.

“(h)(1) Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

“(2) The Administrator shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

“(i) For purposes of this section—

“(1) the term ‘cost of attendance’ has the meaning given that term in section 472 of the Higher Education Act of 1965 [20 U.S.C. 10877];

“(2) the term ‘institution of higher education’ has the meaning given that term in section 101(a) of the Higher Education Act of 1965 [20 U.S.C. 1001(a)]; and

“(3) the term ‘Program’ means the Federal Aviation Administration Science and Technology Scholarship Program established under this section.

“(j)(1) There is authorized to be appropriated to the Federal Aviation Administration for the Program \$10,000,000 for each fiscal year.

“(2) Amounts appropriated under this section shall remain available for 2 fiscal years.

“(k) The Administrator may provide temporary internships to full-time students enrolled in an undergraduate or post-graduate program leading to an advanced degree in an aerospace-related or aviation safety-related field of endeavor.”

INTERNET AVAILABILITY OF INFORMATION

Pub. L. 106-181, title IX, §903, Apr. 5, 2000, 114 Stat. 196, provided that: “The Administrator [of the Federal Aviation Administration] shall make available through the Internet home page of the Federal Aviation Administration the abstracts relating to all research grants and awards made with funds authorized by the amendments made by this Act [see Tables for classification]. Nothing in this section shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public.”

FINDINGS

Section 221 of Pub. L. 104-264 provided that: “Congress finds the following:

“(1) In many respects the Administration is a unique agency, being one of the few non-defense government agencies that operates 24 hours a day, 365 days of the year, while continuing to rely on outdated technology to carry out its responsibilities for a state-of-the-art industry.

“(2) Until January 1, 1996, users of the air transportation system paid 70 percent of the budget of the Administration, with the remaining 30 percent coming from the General Fund. The General Fund contribution over the years is one measure of the benefit received by the general public, military, and other users of Administration’s services.

“(3) The Administration must become a more efficient, effective, and different organization to meet future challenges.

“(4) The need to balance the Federal budget means that it may become more and more difficult to obtain sufficient General Fund contributions to meet the Administration’s future budget needs.

“(5) Congress must keep its commitment to the users of the national air transportation system by

seeking to spend all moneys collected from them each year and deposited into the Airport and Airway Trust Fund. Existing surpluses representing past receipts must also be spent for the purposes for which such funds were collected.

“(6) The aviation community and the employees of the Administration must come together to improve the system. The Administration must continue to recognize who its customers are and what their needs are, and to design and redesign the system to make safety improvements and increase productivity.

“(7) The Administration projects that commercial operations will increase by 18 percent and passenger traffic by 35 percent by the year 2002. Without effective airport expansion and system modernization, these needs cannot be met.

“(8) Absent significant and meaningful reform, future challenges and needs cannot be met.

“(9) The Administration must have a new way of doing business.

“(10) There is widespread agreement within government and the aviation industry that reform of the Administration is essential to safely and efficiently accommodate the projected growth of aviation within the next decade.

“(11) To the extent that Congress determines that certain segments of the aviation community are not required to pay all of the costs of the government services which they require and benefits which they receive, Congress should appropriate the difference between such costs and any receipts received from such segment.

“(12) Prior to the imposition of any new charges or user fees on segments of the industry, an independent review must be performed to assess the funding needs and assumptions for operations, capital spending, and airport infrastructure.

“(13) An independent, thorough, and complete study and assessment must be performed of the costs to the Administration and the costs driven by each segment of the aviation system for safety and operational services, including the use of the air traffic control system and the Nation’s airports.

“(14) Because the Administration is a unique Federal entity in that it is a participant in the daily operations of an industry, and because the national air transportation system faces significant problems without significant changes, the Administration has been authorized to change the Federal procurement and personnel systems to ensure that the Administration has the ability to keep pace with new technology and is able to match resources with the real personnel needs of the Administration.

“(15) The existing budget system does not allow for long-term planning or timely acquisition of technology by the Administration.

“(16) Without reforms in the areas of procurement, personnel, funding, and governance, the Administration will continue to experience delays and cost overruns in its major modernization programs and needed improvements in the performance of the air traffic management system will not occur.

“(17) All reforms should be designed to help the Administration become more responsive to the needs of its customers and maintain the highest standards of safety.”

PURPOSES

Section 222 of title II of Pub. L. 104-264 provided that: “The purposes of this title [see Effective Date of 1996 Amendment note set out above] are—

“(1) to ensure that final action shall be taken on all notices of proposed rulemaking of the Administration within 18 months after the date of their publication;

“(2) to permit the Administration, with Congressional review, to establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

“(3) to establish a more autonomous and accountable Administration within the Department of Transportation; and

“(4) to make the Administration a more efficient and effective organization, able to meet the needs of a dynamic, growing industry, and to ensure the safety of the traveling public.”

PRESERVATION OF EXISTING AUTHORITY

Section 223(b) of title II of Pub. L. 104-264 provided that: “Nothing in this title [see Effective Date of 1996 Amendment note set out above] or the amendments made by this title limits any authority granted to the Administrator by statute or by delegation that was in effect on the day before the date of the enactment of this Act [Oct. 9, 1996].”

PERSONNEL MANAGEMENT SYSTEM FOR FEDERAL AVIATION ADMINISTRATION

Pub. L. 104-50, title III, §347, Nov. 15, 1995, 109 Stat. 460, as amended by Pub. L. 104-122, Mar. 29, 1996, 110 Stat. 876; Pub. L. 105-339, §5, Oct. 31, 1998, 112 Stat. 3187, which required the Administrator of the Federal Aviation Administration to develop and implement, not later than Jan. 1, 1996, a personnel management system, exempt from most provisions of Title 5, Government Organization and Employees, to provide for greater flexibility in the hiring, training, compensation, and location of personnel, was repealed by Pub. L. 106-181, title III, §307(d), Apr. 5, 2000, 114 Stat. 126.

DEPENDENTS OF FEDERAL AVIATION ADMINISTRATION PERSONNEL

Pub. L. 106-346, §101(a) [title III, §303], Oct. 23, 2000, 114 Stat. 1356, 1356A-23, provided that: “Hereafter, funds appropriated under this or any other Act for expenditures by the Federal Aviation Administration shall be available: (1) except as otherwise authorized by title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents; and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106-69, title III, §303, Oct. 9, 1999, 113 Stat. 1015.

Pub. L. 105-277, div. A, §101(g) [title III, §303], Oct. 21, 1998, 112 Stat. 2681-439, 2681-464.

Pub. L. 105-66, title III, §303, Oct. 27, 1997, 111 Stat. 1441.

Pub. L. 104-205, title III, §303, Sept. 30, 1996, 110 Stat. 2968.

Pub. L. 104-50, title III, §303, Nov. 15, 1995, 109 Stat. 453.

Pub. L. 103-331, title III, §303, Sept. 30, 1994, 108 Stat. 2488.

Pub. L. 103-122, title III, §303, Oct. 27, 1993, 107 Stat. 1219.

Pub. L. 102-388, title III, §303, Oct. 6, 1992, 106 Stat. 1543.

Pub. L. 102-143, title III, §303, Oct. 28, 1991, 105 Stat. 939.

Pub. L. 101-516, title III, §303, Nov. 5, 1990, 104 Stat. 2178.

Pub. L. 101-164, title III, §303, Nov. 21, 1989, 103 Stat. 1091.

Pub. L. 100-457, title III, §303, Sept. 30, 1988, 102 Stat. 2146.

Pub. L. 100-202, §101(l) [title III, §303], Dec. 22, 1987, 101 Stat. 1329-358, 1329-377.

Pub. L. 99-500, §101(l) [H.R. 5205, title III, §303], Oct. 18, 1986, 100 Stat. 1783-308, and Pub. L. 99-591, §101(l), Oct. 30, 1986, 100 Stat. 3341-308.

Pub. L. 99-190, §101(e) [title III, §303], Dec. 19, 1985, 99 Stat. 1267, 1284.

Pub. L. 98-473, title I, §101(i) [title III, §303], Oct. 12, 1984, 98 Stat. 1944, 1961.

Pub. L. 98-78, title III, §303, Aug. 15, 1983, 97 Stat. 470.

Pub. L. 97-369, title III, §306, Dec. 18, 1982, 96 Stat. 1781.

Pub. L. 97-102, title III, §306, Dec. 23, 1981, 95 Stat. 1458.

Pub. L. 96-400, title III, §306, Oct. 9, 1980, 94 Stat. 1695.

Pub. L. 96-131, title III, §307, Nov. 30, 1979, 93 Stat. 1037.

Pub. L. 95-335, title III, §310, Aug. 4, 1978, 92 Stat. 448.

Pub. L. 95-85, title III, §310, Aug. 2, 1977, 91 Stat. 416.

Pub. L. 94-387, title III, §312, Aug. 14, 1976, 90 Stat. 1185.

Pub. L. 94-134, title III, §310, Nov. 24, 1975, 89 Stat. 711.

Pub. L. 93-391, title III, §311, Aug. 28, 1974, 88 Stat. 780.

Pub. L. 93-98, title III, §313, Aug. 16, 1973, 87 Stat. 340.

Pub. L. 92-398, title III, §313, Aug. 22, 1972, 86 Stat. 591.

Pub. L. 92-74, title I, Aug. 10, 1971, 85 Stat. 203.

Pub. L. 91-168, title I, Dec. 26, 1969, 83 Stat. 455.

Pub. L. 90-464, title I, Aug. 8, 1968, 82 Stat. 655.

Pub. L. 90-112, title II, Oct. 23, 1967, 81 Stat. 312.

Pub. L. 89-474, title I, June 29, 1966, 80 Stat. 223.

Pub. L. 89-57, title I, June 30, 1965, 79 Stat. 197.

Pub. L. 88-392, title I, Aug. 1, 1964, 78 Stat. 369.

Pub. L. 88-39, title I, June 13, 1963, 77 Stat. 59.

Pub. L. 87-575, title I, Aug. 6, 1962, 76 Stat. 311.

Pub. L. 87-159, title I, Aug. 21, 1961, 75 Stat. 395.

Pub. L. 86-561, title I, June 30, 1960, 74 Stat. 285.

Pub. L. 86-39, title I, June 11, 1959, 73 Stat. 67.

Pub. L. 85-354, title I, Mar. 28, 1958, 72 Stat. 63.

Pub. L. 85-37, title I, May 27, 1957, 71 Stat. 37.

Apr. 2, 1956, ch. 161, title I, 70 Stat. 94.

June 1, 1955, ch. 113, title I, 69 Stat. 74.

May 28, 1954, ch. 242, title I, 68 Stat. 146.

June 18, 1953, ch. 132, title I, 67 Stat. 69.

AVIATION SAFETY COMMISSION

Pub. L. 99-500, title V, §§501-507, Oct. 18, 1986, 100 Stat. 1783-370 to 1783-373, and Pub. L. 99-591, title V, §§501-507, Oct. 30, 1986, 100 Stat. 3341-373 to 3341-376, known as the Aviation Safety Commission Act of 1986, established Aviation Safety Commission, directed Commission to study organization and functions of Federal Aviation Administration and means by which it could most efficiently and effectively perform its responsibilities and increase aviation safety and to submit reports to the President and the two houses of Congress within 9 months after Oct. 18, 1986, and within 18 months after Oct. 18, 1986, and provided that Commission was to cease to exist 18 months after Oct. 18, 1986.

APPOINTMENT OF RETIRED MILITARY OFFICER AS ADMINISTRATOR

Pub. L. 102-308, June 26, 1992, 106 Stat. 273, provided: “That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint General Thomas C. Richards, United States Air Force, Retired, to the Office of Administrator of the Federal Aviation Administration. General Richards’ appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Air Force, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, General Richards

shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Air Force, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Air Force, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

“SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, General Richards shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Air Force.

“SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.”

Prior provisions authorizing the appointment of a retired military officer as Administrator were contained in the following acts:

Pub. L. 102-223, Dec. 11, 1991, 105 Stat. 1678.

Pub. L. 101-47, June 30, 1989, 103 Stat. 134.

Pub. L. 98-256, Apr. 10, 1984, 98 Stat. 125.

Pub. L. 89-46, June 22, 1965, 79 Stat. 171.

EX. ORD. NO. 13180. AIR TRAFFIC PERFORMANCE-BASED ORGANIZATION

Ex. Ord. No. 13180, Dec. 7, 2000, 65 F.R. 77493, as amended by Ex. Ord. No. 13264, June 4, 2002, 67 F.R. 39243, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further improve the provision of air traffic services in ways that increase efficiency, take better advantage of new technologies, accelerate modernization efforts, and respond more effectively to the needs of the traveling public, while enhancing the safety, security, and efficiency of the Nation's air transportation system, it is hereby ordered as follows:

SECTION 1. *Establishment of the Air Traffic Organization.* (a) The Secretary of Transportation (Secretary) shall, consistent with his legal authorities, move to establish within the Federal Aviation Administration (FAA) a performance-based organization to be known as the “Air Traffic Organization” (ATO).

(b) The ATO shall be composed of those elements of the FAA's Air Traffic Services and Research and Acquisition organizations that have direct connection and give support to the provision of day-to-day operational air traffic services, as determined by the Administrator of the Federal Aviation Administration (Administrator). The Administrator may delegate responsibility for any operational activity of the air traffic control system to the head of the ATO. The Administrator's responsibility for general safety, security, and policy-making functions for the National Airspace System is unaffected by this order.

(c) The Chief Operating Officer (COO) of the Air Traffic Control System, established by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Air-21) (Public Law 106-181) [see Short Title of 2000 Amendments note set out under section 40101 of this title], shall head the ATO and shall report directly to the Administrator and be subject to the authority of the Administrator. The COO, in consultation with the Air Traffic Control Subcommittee of the Aviation Management Advisory Committee, shall enter into an annual performance agreement with the Administrator that sets forth measurable organization and individual goals in key operational areas and describes specific targets and how such goals will be achieved. The COO may receive an annual bonus not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the COO's performance in relation to the targets and goals described above.

(d) The COO shall develop a 5-year strategic plan for the air traffic control system, including a clear statement of the mission and objectives for the system's safety, efficiency, and productivity. This strategic plan must ensure that ATO actions are consistent with long-term FAA strategies for the aviation system as a whole.

(e) The COO shall also enter into a framework agreement with the Administrator that will establish the relationship of the ATO with the other organizations of the FAA.

SEC. 2. *Purpose.* The FAA's primary mission is to ensure the safety, security, and efficiency of the National Airspace System. The purpose of this order is to enhance that mission and further improve the delivery of air traffic services to the American public by reorganizing the FAA's air traffic services and related offices into a performance-based, results-oriented, organization. The ATO will be better able to make use of the unique procurement and personnel authorities that the FAA currently has and to better use the additional management reforms enacted by the Congress this year under Air-21. Specifically, the ATO shall:

(a) optimize use of existing management flexibilities and authorities to improve the efficiency of air traffic services and increase the capacity of the system;

(b) develop methods to accelerate air traffic control modernization and to improve aviation safety related to air traffic control;

(c) develop agreements with the Administrator of the FAA and users of the products, services, and capabilities it will provide;

(d) operate in accordance with safety performance standards developed by the FAA and rapidly respond to FAA safety and security oversight findings;

(e) consult with its customers, the traveling public, including direct users such as airlines, cargo carriers, manufacturers, airports, general aviation, and commercial space transportation providers, and focus on producing results that satisfy the FAA's external customer needs;

(f) consult with appropriate Federal, State, and local public agencies, including the Department of Defense and the National Aeronautics and Space Administration, to determine the best practices for meeting the diverse needs throughout the National Airspace System;

(g) establish strong incentives to managers for achieving results; and

(h) formulate and recommend to the Administrator any management, fiscal, or legislative changes necessary for the organization to achieve its performance goals.

SEC. 3. *Aviation Management Advisory Committee.* The Air Traffic Control Subcommittee of the Aviation Management Advisory Committee shall provide, consistent with its responsibilities under Air-21, general oversight to ATO regarding the administration, management, conduct, direction, and supervision of the air traffic control system.

SEC. 4. *Evaluation and Report.* Not later than 5 years after the date of this order, the Aviation Management Advisory Committee shall provide to the Secretary and the Administrator a report on the operation and effectiveness of the ATO, together with any recommendations for management, fiscal, or legislative changes to enable the organization to achieve its goals.

SEC. 5. *Definitions.* The term “air traffic control system” has the same meaning as the term defined by section 40102(a)(42) [now 40102(a)(47)] of title 49, United States Code.

SEC. 6. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it, create any right to administrative or judicial review, or any right, whether substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

DEFINITIONS FOR TITLE II OF PUB. L. 104-264

Section 202 of title II of Pub. L. 104-264 provided that: "In this title [see Effective Date of 1996 Amendment note set out above], the following definitions apply:

"(1) ADMINISTRATION.—The term 'Administration' means the Federal Aviation Administration.

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

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

§ 107. Federal Transit Administration

(a) The Federal Transit Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

(c) The Administrator shall carry out duties and powers prescribed by the Secretary.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2417; Pub. L. 102-240, title III, §3004(c)(1), (2), Dec. 18, 1991, 105 Stat. 2088.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
107	49:1608 (note).	Reorg. Plan No. 2 of 1968, eff. July 1, 1968, §3, 82 Stat. 1369.

In subsection (b), the words "and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314)" are omitted as surplus because of 5:5314.

AMENDMENTS

1991—Pub. L. 102-240 substituted "Federal Transit Administration" for "Urban Mass Transportation Administration" in section catchline and subsec. (a).

CHANGE OF NAME

Section 3004(a), (b) of Pub. L. 102-240 provided that:

"(a) REDESIGNATION OF UMTA.—The Urban Mass Transportation Administration of the Department of Transportation shall be known and designated as the 'Federal Transit Administration'.

"(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administration shall be deemed to be a reference to the 'Federal Transit Administration'."

§ 108. Pipeline and Hazardous Materials Safety Administration

(a) IN GENERAL.—The Pipeline and Hazardous Materials Safety Administration shall be an administration in the Department of Transportation.

(b) SAFETY AS HIGHEST PRIORITY.—In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in pipeline transportation and hazardous materials transportation.

(c) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the ad-

vice and consent of the Senate, and shall be an individual with professional experience in pipeline safety, hazardous materials safety, or other transportation safety. The Administrator shall report directly to the Secretary of Transportation.

(d) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(e) CHIEF SAFETY OFFICER.—The Administration shall have an Assistant Administrator for Pipeline and Hazardous Materials Safety appointed in the competitive service by the Secretary. The Assistant Administrator shall be the Chief Safety Officer of the Administration. The Assistant Administrator shall carry out the duties and powers prescribed by the Administrator.

(f) DUTIES AND POWERS OF THE ADMINISTRATOR.—The Administrator shall carry out—

(1) duties and powers related to pipeline and hazardous materials transportation and safety vested in the Secretary by chapters 51, 57, 61, 601, and 603; and

(2) other duties and powers prescribed by the Secretary.

(g) LIMITATION.—A duty or power specified in subsection (f)(1) may be transferred to another part of the Department of Transportation or another government entity only if specifically provided by law.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2417; Pub. L. 103-272, §4(j)(4), July 5, 1994, 108 Stat. 1365; Pub. L. 108-426, §2(a), Nov. 30, 2004, 118 Stat. 2423.)

HISTORICAL AND REVISION NOTES

PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
108(a)	49:1655(b)(1), (2).	Oct. 15, 1966, Pub. L. 89-670, §§3(e)(3) (related to USCG), 6(b)(1), (2), 80 Stat. 932, 938.
108(b)	49:1652(e)(3) (related to USCG).	

Subsection (a) reflects the transfer of the Coast Guard to the Department of Transportation as provided by the source provisions and 14:1. The words "Except when operating as a service of the Navy" are substituted for 49:1655(b)(2) because of 14:3. The words "The Secretary of Transportation exercises . . . vested in the Secretary of the Treasury . . . immediately before April 1, 1967" are substituted for "and there are hereby transferred to and vested in the Secretary . . . of the Secretary of the Treasury" to reflect the transfer of duties and powers to the Secretary of Transportation on April 1, 1967, the effective date of the Department of Transportation Act (Pub. L. 89-670, 80 Stat. 931).

In subsection (b), the first sentence is included to provide the name of the officer in charge of the Coast Guard, as reflected in 14:44. In the 2d sentence, the words "carrying out the duties and powers specified by law" are substituted for "such functions, powers, and duties as are specified in this chapter to be carried out", and the words "carry out duties and powers prescribed" are substituted for "carry out such additional functions, powers, and duties as", for consistency.

PUB. L. 103-272

Section 4(j)(4) amends 49:108(a) to reflect the intent of 49 App.:1655(b)(2), on which 49:108(a) was based.

AMENDMENTS

2004—Pub. L. 108-426 amended section catchline and text generally, substituting provisions relating to Pipeline and Hazardous Materials Safety Administration for provisions relating to Coast Guard.

1994—Subsec. (a). Pub. L. 103-272 designated existing provisions as par. (1), substituted “The Coast Guard” for “Except when operating as a service in the Navy, the Coast Guard”, and added par. (2).

SAVINGS PROVISIONS

Pub. L. 108-426, §5, Nov. 30, 2004, 118 Stat. 2426, as amended by Pub. L. 110-244, title III, §302(h), June 6, 2008, 122 Stat. 1618, provided that:

“(a) TRANSFER OF ASSETS AND PERSONNEL.—Personnel, property, and records employed, used, held, available, or to be made available in connection with functions transferred within the Department of Transportation by this Act [see Short Title of 2004 Amendment note set out under section 101 of this title] shall be transferred for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds (including funds of any predecessor entity) shall also be transferred accordingly.

“(b) LEGAL DOCUMENTS.—All orders (including delegations by the Secretary of Transportation), determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

“(1) that have been issued, made, granted, or allowed to become effective by any officer or employee, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act; and

“(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Department, any other authorized official, a court of competent jurisdiction, or operation of law.

“(c) PROCEEDINGS.—The provisions of this Act shall not affect any proceedings, including administrative enforcement actions, pending before this Act takes effect, insofar as those functions are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall proceed in accordance with applicable law and regulations. Nothing in this subsection shall be deemed to prohibit the conclusion or modification of any proceeding described in this subsection under the same terms and conditions and to the same extent that such proceeding could have been concluded or modified if this Act had not been enacted. The Secretary of Transportation is authorized to provide for the orderly transfer of pending proceedings.

“(d) SUITS.—

“(1) IN GENERAL.—This Act shall not affect suits commenced before the date of enactment of this Act [Nov. 30, 2004], except as provided in paragraphs (2) and (3). In all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

“(2) SUITS BY OR AGAINST DEPARTMENT.—Any suit by or against the Department begun before the date of enactment of this Act, shall proceed in accordance with applicable law and regulations, insofar as it involves a function retained and transferred under this Act.

“(3) PROCEDURES FOR REMANDED CASES.—If the court in a suit described in paragraph (1) remands a case, subsequent proceedings related to such case shall proceed under procedures that are in accordance with applicable law and regulations as in effect at the time of each subsequent proceedings.

“(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or

against any officer in his or her official capacity shall abate by reason of the enactment of this Act.

“(f) EXERCISE OF AUTHORITIES.—An officer or employee of the Department, for purposes of performing a function transferred by this Act, may exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function by this Act.

“(g) REFERENCES.—A reference relating to an agency, officer, or employee affected by this Act in any Federal law, Executive order, rule, regulation, or delegation of authority, or in any document pertaining to an officer or employee, is deemed to refer, as appropriate, to the agency, officer, or employee who succeeds to the functions transferred by this Act.

“(h) DEFINITION.—In this section, the term ‘this Act’ includes the amendments made by this Act.”

TRANSFER OF DUTIES AND POWERS OF RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Pub. L. 108-426, §2(b), Nov. 30, 2004, 118 Stat. 2424, provided that: “The authority of the Research and Special Programs Administration exercised under chapters 51, 57, 61, 601, and 603 of title 49, United States Code, is transferred to the Administrator of the Pipeline and Hazardous Materials Safety Administration.”

For transfer of authority of the Research and Special Programs Administration, other than authority exercised under chapters 51, 57, 61, 601, and 603 of this title, to the Administrator of the Research and Innovative Technology Administration, see section 4(b) of Pub. L. 108-426, set out as a note under section 112 of this title.

Pub. L. 108-426, §7, Nov. 30, 2004, 118 Stat. 2428, provided that: “The Secretary shall provide for the orderly transfer of duties and powers under this Act [see Short Title of 2004 Amendment note set out under section 101 of this title], including the amendments made by this Act, as soon as practicable but not later than 90 days after the date of enactment of this Act [Nov. 30, 2004].”

REPORTS

Pub. L. 108-426, §6, Nov. 30, 2004, 118 Stat. 2428, provided that:

“(a) REPORTS BY THE INSPECTOR GENERAL.—Not later than 30 days after the date of enactment of this Act [Nov. 30, 2004], the Inspector General of the Department of Transportation shall submit to the Secretary of Transportation and the Administrator of the Pipeline and Hazardous Materials Safety Administration a report containing the following:

“(1) A list of each statutory mandate regarding pipeline safety or hazardous materials safety that has not been implemented.

“(2) A list of each open safety recommendation made by the National Transportation Safety Board or the Inspector General regarding pipeline safety or hazardous materials safety.

“(b) REPORTS BY THE SECRETARY.—

“(1) STATUTORY MANDATES.—Not later than 90 days after the date of enactment of this Act, and every 180 days thereafter until each of the mandates referred to in subsection (a)(1) has been implemented, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the specific actions taken to implement such mandates.

“(2) NTSB AND INSPECTOR GENERAL RECOMMENDATIONS.—Not later than January 1st of each year, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing each recommendation referred to in subsection (a)(2) and a copy of the Department of Transportation response to each such recommendation.”

§ 109. Maritime Administration

(a) ORGANIZATION.—The Maritime Administration is an administration in the Department of Transportation.

(b) MARITIME ADMINISTRATOR.—The head of the Maritime Administration is the Maritime Administrator, who is appointed by the President by and with the advice and consent of the Senate. The Administrator shall report directly to the Secretary of Transportation and carry out the duties prescribed by the Secretary.

(c) DEPUTY MARITIME ADMINISTRATOR.—The Maritime Administration shall have a Deputy Maritime Administrator, who is appointed in the competitive service by the Secretary, after consultation with the Administrator. The Deputy Administrator shall carry out the duties prescribed by the Administrator. The Deputy Administrator shall be Acting Administrator during the absence or disability of the Administrator and, unless the Secretary designates another individual, during a vacancy in the office of Administrator.

(d) DUTIES AND POWERS VESTED IN SECRETARY.—All duties and powers of the Maritime Administration are vested in the Secretary.

(e) REGIONAL OFFICES.—The Maritime Administration shall have regional offices for the Atlantic, Gulf, Great Lakes, and Pacific port ranges, and may have other regional offices as necessary. The Secretary shall appoint a qualified individual as Director of each regional office. The Secretary shall carry out appropriate activities and programs of the Maritime Administration through the regional offices.

(f) INTERAGENCY AND INDUSTRY RELATIONS.—The Secretary shall establish and maintain liaison with other agencies, and with representative trade organizations throughout the United States, concerned with the transportation of commodities by water in the export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States for the transportation of those commodities.

(g) DETAILING OFFICERS FROM ARMED FORCES.—To assist the Secretary in carrying out duties and powers relating to the Maritime Administration, not more than five officers of the armed forces may be detailed to the Secretary at any one time, in addition to details authorized by any other law. During the period of a detail, the Secretary shall pay the officer an amount that, when added to the officer's pay and allowances as an officer in the armed forces, makes the officer's total pay and allowances equal to the amount that would be paid to an individual performing work the Secretary considers to be of similar importance, difficulty, and responsibility as that performed by the officer during the detail.

(h) CONTRACTS, COOPERATIVE AGREEMENTS, AND AUDITS.—

(1) CONTRACTS AND COOPERATIVE AGREEMENTS.—In the same manner that a private corporation may make a contract within the scope of its authority under its charter, the Secretary may make contracts and cooperative agreements for the United States Government and disburse amounts to—

(A) carry out the Secretary's duties and powers under this section, subtitle V of title 46, and all other Maritime Administration programs; and

(B) protect, preserve, and improve collateral held by the Secretary to secure indebtedness.

(2) AUDITS.—The financial transactions of the Secretary under paragraph (1) shall be audited by the Comptroller General. The Comptroller General shall allow credit for an expenditure shown to be necessary because of the nature of the business activities authorized by this section or subtitle V of title 46. At least once a year, the Comptroller General shall report to Congress any departure by the Secretary from this section or subtitle V of title 46.

(i) GRANT ADMINISTRATIVE EXPENSES.—Except as otherwise provided by law, the administrative and related expenses for the administration of any grant programs by the Maritime Administrator may not exceed 3 percent.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, there are authorized to be appropriated such amounts as may be necessary to carry out the duties and powers of the Secretary relating to the Maritime Administration.

(2) LIMITATIONS.—Only those amounts specifically authorized by law may be appropriated for the use of the Maritime Administration for—

(A) acquisition, construction, or reconstruction of vessels;

(B) construction-differential subsidies incident to the construction, reconstruction, or reconditioning of vessels;

(C) costs of national defense features;

(D) payments of obligations incurred for operating-differential subsidies;

(E) expenses necessary for research and development activities, including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental vessel operations;

(F) the Vessel Operations Revolving Fund;

(G) National Defense Reserve Fleet expenses;

(H) expenses necessary to carry out part B of subtitle V of title 46; and

(I) other operations and training expenses related to the development of waterborne transportation systems, the use of waterborne transportation systems, and general administration.

(3) TRAINING VESSELS.—Amounts may not be appropriated for the purchase or construction of training vessels for State maritime academies unless the Secretary has approved a plan for sharing training vessels between State maritime academies.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2417; Pub. L. 103-272, §5(m)(5), July 5, 1994, 108 Stat. 1375; Pub. L. 109-304, §12, Oct. 6, 2006, 120 Stat. 1698; Pub. L. 111-84, div. C, title XXXV, §3508, Oct. 28, 2009, 123 Stat. 2721; Pub. L. 111-383, div. A, title X, §1075(d)(26), Jan. 7, 2011, 124 Stat. 4374.)

HISTORICAL AND REVISION NOTES
PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
109	(no source).	

The section is included to provide in chapter 1 of the revised title a complete list of the organizational units established by law that are in the Department of Transportation or are subject to the direction and supervision of the Secretary of Transportation.

PUB. L. 109-304

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
109(a)	46 App.:1111 note. 46 App.:1601.	Reorg. Plan No. 21 of 1950, eff. May 24, 1950, §201, 64 Stat. 1276. Pub. L. 97-31, §2, Aug. 6, 1981, 95 Stat. 151.
109(b)	46 App.:1111 note. 46 App.:1603.	Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, §201, 75 Stat. 842; Pub. L. 88-426, title III, §305(19)(B), Aug. 14, 1964, 78 Stat. 425; Pub. L. 91-469, §38(a), Oct. 21, 1970, 84 Stat. 1036. Pub. L. 97-31, §4, Aug. 6, 1981, 95 Stat. 151.
109(c)	46 App.:1111 note.	Reorg. Plan No. 21 of 1950, eff. May 24, 1950, §203, 64 Stat. 1276.
109(d)	46 App.:1111 note. 46 App.:1602.	Reorg. Plan No. 21 of 1950, eff. May 24, 1950, §204, 64 Stat. 1276. Pub. L. 97-31, §3, Aug. 6, 1981, 95 Stat. 151.
109(e)	46 App.:1213(b).	June 29, 1936, ch. 858, title VIII, §809(b), as added Pub. L. 94-10, §3, Mar. 23, 1975, 89 Stat. 16; Pub. L. 97-31, §12(121), Aug. 6, 1981, 95 Stat. 164.
109(f)	46 App.:1122(d).	June 29, 1936, ch. 858, title II, §212(d), 49 Stat. 1990; Pub. L. 97-31, §12(69), Aug. 6, 1981, 95 Stat. 159.
109(g)	46 App.:1111(f) (2d sentence related to Secretary).	June 29, 1936, ch. 858, title II, §201(f) (2d sentence related to Secretary), 49 Stat. 1986; Aug. 4, 1939, ch. 417, §4, 53 Stat. 1182; Pub. L. 97-31, §12(58)(D), Aug. 6, 1981, 95 Stat. 158.
109(h)	46 App.:1117 (related to Secretary).	June 29, 1936, ch. 858, title II, §207 (related to Secretary), 49 Stat. 1988; June 23, 1938, ch. 600, §2, 52 Stat. 954; Pub. L. 97-31, §12(64), Aug. 6, 1981, 95 Stat. 159; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.
109(i)(1)	46 App.:1119(a).	June 29, 1936, ch. 858, title II, §209, 49 Stat. 1988; Aug. 26, 1937, ch. 822, §3, 50 Stat. 839; Pub. L. 90-81, Sept. 5, 1967, 81 Stat. 193; Pub. L. 91-469, §2, Oct. 21, 1970, 84 Stat. 1018; Pub. L. 95-173, Nov. 12, 1977, §6(a), 91 Stat. 1360; Pub. L. 96-387, §4, Oct. 7, 1980, 94 Stat. 1546; Pub. L. 96-453, §3(a), Oct. 15, 1980, 94 Stat. 2008; Pub. L. 97-31, §12(66), Aug. 6, 1981, 95 Stat. 159.
109(i)(2)	46 App.:1119(b).	
109(i)(3)	46 App.:1295c-1.	Pub. L. 100-202, §101(a) [title V (4th proviso on p. 1329-28)], Dec. 22, 1987, 101 Stat. 1329, 1329-28.

In subsection (b), the words “The Assistant Secretary of Commerce for Maritime Affairs shall, ex officio, be the Administrator” in section 201 of Reorganization Plan No. 7 of 1961 are omitted as superseded by 46 App. U.S.C. 1601 and 1603. The words “and who shall be compensated at the rate provided for level III of the Executive Schedule” in 46 App. U.S.C. 1603 are omitted as unnecessary because of 5 U.S.C. 5314.

In subsection (c), the word “Secretary” means the “Secretary of Transportation” because under 46 App. U.S.C. 1602 all functions, powers, and duties relating to

the Maritime Administration were transferred from the Secretary of Commerce to the Secretary of Transportation. The words “in the competitive service” are substituted for “under the classified civil service” because of 5 U.S.C. 2102(c). The words “*Provided*, That such Deputy Administrator shall at no time sit as a member or acting member of the Federal Maritime Board” are omitted as obsolete because the Federal Maritime Board was abolished by section 304 of Reorganization Plan No. 7 of 1961 (46 App. U.S.C. 1111 note).

In subsection (f), the words “vessels of the United States” are substituted for “vessels of United States registry” because of the definition of “vessel of the United States” in chapter 1 of the revised title.

In subsection (g), the words “equal to the amount that would be paid to an individual performing work the Secretary considers to be of similar importance, difficulty, and responsibility” are substituted for “equal to the pay and allowances he would receive if he were the incumbent of an office or position in such service (or in the corresponding executive department), which, in the opinion of . . . the Secretary of Transportation, involves the performance of work similar in importance, difficulty, and responsibility” to eliminate unnecessary words.

In subsection (h)(2), the words “according to approved commercial practice as provided in the Act of March 20, 1922 (42 Stat. 444)” are omitted as obsolete and unnecessary.

In subsection (i)(2), the words “Notwithstanding any other provision of this chapter or any other law” are omitted as unnecessary. In clause (G), the words “National Defense Reserve Fleet” are substituted for “reserve fleet” for clarity. Clause (H) is substituted for “(7) maritime training at the Merchant Marine Academy at Kings Point, New York”, “(8) financial assistance to State maritime academies under section 1295c of this Appendix”, “(10) expenses necessary for additional training provided under section 1295d of this Appendix”, and “(10) expenses necessary to carry out subchapter XIII of this chapter” because of the reorganization of revised title 46 and to eliminate unnecessary words. The text of 46 App. U.S.C. 1119 (proviso) is omitted as obsolete.

AMENDMENTS

2011—Subsec. (h). Pub. L. 111-383 made technical amendment to directory language of Pub. L. 111-84, §3508(1). See 2009 Amendment note below.

2009—Subsec. (h). Pub. L. 111-84, §3508(1), as amended by Pub. L. 111-383, substituted “Contracts, Cooperative Agreements, and Audits” for “Contracts and Audits” in heading.

Subsec. (h)(1). Pub. L. 111-84, §3508(2), (3), substituted “Contracts and cooperative agreements” for “Contracts” in heading and “make contracts and cooperative agreements” for “make contracts” in introductory provisions.

Subsec. (h)(1)(A). Pub. L. 111-84, §3508(4), (5), substituted “section,” for “section and” and “title 46, and all other Maritime Administration programs;” for “title 46;”.

Subsecs. (i), (j). Pub. L. 111-84, §3508(6), added subsec. (i) and redesignated former subsec. (i) as (j).

2006—Pub. L. 109-304 amended section generally. Prior to amendment, section read as follows:

“(a) The Maritime Administration transferred by section 2 of the Maritime Act of 1981 (46 App. U.S.C. 1601) is an administration in the Department of Transportation.

“(b) The Administrator of the Administration appointed under section 4 of the Maritime Act of 1981 (46 App. U.S.C. 1603) reports directly to the Secretary of Transportation.”

1994—Pub. L. 103-272 inserted “App.” after “(46” in subssecs. (a) and (b).

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title X, §1075(d), Jan. 7, 2011, 124 Stat. 4372, provided that the amendment by section

1075(d)(26) is effective as of Oct. 28, 2009, and as if included in Pub. L. 111-84 as enacted.

REFERENCES IN OTHER FEDERAL LAWS TO FUNCTIONS OR OFFICES TRANSFERRED

Pub. L. 97-31, §10, Aug. 6, 1981, 95 Stat. 153, provided that: "With respect to any function or office transferred by this Act [see Tables for classification] and exercised on or after the effective date of this Act [Aug. 6, 1981], reference in any other Federal law to the Maritime Administration or any of its predecessor agencies or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary of Transportation, other official, or component of the Department of Transportation to which this Act transfers such functions."

EXPANSION OF THE MARINE VIEW SYSTEM

Pub. L. 111-84, div. C, title XXXV, §3516, Oct. 28, 2009, 123 Stat. 2725, provided that:

"(a) DEFINITIONS.—In this section:

"(1) MARINE TRANSPORTATION SYSTEM.—The term 'marine transportation system' means the navigable water transportation system of the United States, including the vessels, ports (and intermodal connections thereto), and shipyards and other vessel repair facilities that are components of that system.

"(2) MARINE VIEW SYSTEM.—The term 'Marine View system' means the information system of the Maritime Administration known as Marine View.

"(b) PURPOSES.—The purposes of this section are—

"(1) to expand the Marine View system; and

"(2) to provide support for the strategic requirements of the marine transportation system and its contribution to the economic viability of the United States.

"(c) EXPANSION OF MARINE VIEW SYSTEM.—To accomplish the purposes of this section, the Secretary of Transportation shall expand the Marine View system so that such system is able to identify, collect, integrate, secure, protect, store, and securely distribute throughout the marine transportation system information that—

"(1) provides access to many disparate marine transportation system data sources;

"(2) enables a system-wide view of the marine transportation system;

"(3) fosters partnerships between the Government of the United States and private entities;

"(4) facilitates accurate and efficient modeling of the entire marine transportation system environment;

"(5) monitors and tracks threats to the marine transportation system, including areas of severe weather or reported piracy; and

"(6) provides vessel tracking and rerouting, as appropriate, to ensure that the economic viability of the United States waterways is maintained."

§ 110. Saint Lawrence Seaway Development Corporation

(a) The Saint Lawrence Seaway Development Corporation established under section 1 of the Act of May 13, 1954 (33 U.S.C. 981), is subject to the direction and supervision of the Secretary of Transportation.

(b) The Administrator of the Corporation appointed under section 2 of the Act of May 13, 1954 (33 U.S.C. 982), reports directly to the Secretary.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2418; Pub. L. 103-272, §4(j)(5)(A), July 5, 1994, 108 Stat. 1366.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
110(a)	(no source).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
110(b)	33:981 (note).	Oct. 15, 1966, Pub. L. 89-670, §8(g)(2), 80 Stat. 943.

Subsection (a) is included to provide in chapter 1 of the revised title a complete list of the organizational units established by law that are in the Department of Transportation or are subject to the direction and supervision of the Secretary of Transportation.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-272 substituted "Saint Lawrence" for "St. Lawrence".

§ 111. Bureau of Transportation Statistics

(a) ESTABLISHMENT.—There is established in the Research and Innovative Technology Administration a Bureau of Transportation Statistics.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Bureau shall be headed by a Director who shall be appointed in the competitive service by the Secretary of Transportation.

(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

(c) RESPONSIBILITIES.—The Director of the Bureau shall serve as the Secretary's senior advisor on data and statistics and shall be responsible for carrying out the following duties:

(1) PROVIDING DATA, STATISTICS, AND ANALYSIS TO TRANSPORTATION DECISIONMAKERS.—Ensuring that the statistics compiled under paragraph (5) are designed to support transportation decisionmaking by the Federal Government, State and local governments, metropolitan planning organizations, transportation-related associations, the private sector (including the freight community), and the public.

(2) COORDINATING COLLECTION OF INFORMATION.—Working with the operating administrations of the Department to establish and implement the Bureau's data programs and to improve the coordination of information collection efforts with other Federal agencies.

(3) DATA MODERNIZATION.—Continually improving surveys and data collection methods to improve the accuracy and utility of transportation statistics.

(4) ENCOURAGING DATA STANDARDIZATION.—Encouraging the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.

(5) TRANSPORTATION STATISTICS.—Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

(A) productivity in various parts of the transportation sector;

(B) traffic flows for all modes of transportation;

(C) other elements of the intermodal transportation database established under subsection (e);

(D) travel times and measures of congestion;

(E) vehicle weights and other vehicle characteristics;

(F) demographic, economic, and other variables influencing traveling behavior, including choice of transportation mode and goods movement;

(G) transportation costs for passenger travel and goods movement;

(H) availability and use of mass transit (including the number of passengers served by each mass transit authority) and other forms of for-hire passenger travel;

(I) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;

(J) safety and security for travelers, vehicles, and transportation systems;

(K) consequences of transportation for the human and natural environment;

(L) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under subsection (g); and

(M) transportation-related variables that influence the domestic economy and global competitiveness.

(6) NATIONAL SPATIAL DATA INFRASTRUCTURE.—Building and disseminating the transportation layer of the National Spatial Data Infrastructure developed under Executive Order No. 12906, including coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by others.

(7) ISSUING GUIDELINES.—Issuing guidelines for the collection of information by the Department required for statistics to be compiled under paragraph (5) in order to ensure that such information is accurate, reliable, relevant, and in a form that permits systematic analysis.

(8) REVIEW SOURCES AND RELIABILITY OF STATISTICS.—Reviewing and reporting to the Secretary on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285), and the amendments made by such Act, and carrying out such other reviews of the sources and reliability of other data collected or statistical information published by the heads of the operating administrations of the Department as shall be requested by the Secretary.

(9) MAKING STATISTICS ACCESSIBLE.—Making the statistics published under this subsection readily accessible to the public.

(d) INFORMATION NEEDS ASSESSMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of the SAFETEA-LU, the Secretary shall enter into an agreement with the National Research Council to develop and publish a National¹ transportation infor-

mation needs assessment (referred to in this subsection as the “assessment”). The assessment shall be submitted to the Secretary and the appropriate committees of Congress not later than 24 months after such agreement is entered into.

(2) CONTENT.—The assessment shall—

(A) identify, in order of priority, the transportation data that is not being collected by the Bureau, operating administrations of the Department, or other Federal, State, or local entities, but is needed to improve transportation decisionmaking at the Federal, State, and local levels and to fulfill the requirements of subsection (c)(5);

(B) recommend whether the data identified in subparagraph (A) should be collected by the Bureau, other parts of the Department, or by other Federal, State, or local entities, and whether any data is of a higher priority than data currently being collected;

(C) identify any data the Bureau or other Federal, State, or local entity is collecting that is not needed;

(D) describe new data collection methods (including changes in surveys) and other changes the Bureau or other Federal, State, or local entity should implement to improve the standardization, accuracy, and utility of transportation data and statistics; and

(E) estimate the cost of implementing any recommendations.

(3) CONSULTATION.—In developing the assessment, the National Research Council shall consult with the Department’s Advisory Council on Transportation Statistics and a representative cross-section of transportation community stakeholders as well as other Federal agencies, including the Environmental Protection Agency, the Department of Energy, and the Department of Housing and Urban Development.

(4) REPORT TO CONGRESS.—Not later than 180 days after the date on which the National Research Council submits the assessment under paragraph (1), the Secretary shall submit a report to Congress that describes—

(A) how the Department plans to fill the data gaps identified under paragraph (2)(A);

(B) how the Department plans to stop collecting data identified under paragraph (2)(C);

(C) how the Department plans to implement improved data collection methods and other changes identified under paragraph (2)(D);

(D) the expected costs of implementing subparagraphs (A), (B), and (C) of this paragraph;

(E) any findings of the assessment under paragraph (1) with which the Secretary disagrees, and why; and

(F) any proposed statutory changes needed to implement the findings of the assessment under paragraph (1).

(e) INTERMODAL TRANSPORTATION DATABASE.—

(1) IN GENERAL.—In consultation with the Under Secretary for Policy, the Assistant Secretaries, and the heads of the operating administrations of the Department, the Director

¹ So in original. Probably should not be capitalized.

shall establish and maintain a transportation database for all modes of transportation.

(2) USE.—The database shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

(3) CONTENTS.—The database shall include—

(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations and by relevant classification;

(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations and by relevant classification;

(C) information on the location and connectivity of transportation facilities and services; and

(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

(f) NATIONAL TRANSPORTATION LIBRARY.—

(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

(2) ACCESS.—The Director shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Director to make statistics readily accessible under subsection (c)(9).

(3) COORDINATION.—The Director shall work with other transportation libraries and transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

(g) NATIONAL TRANSPORTATION ATLAS DATABASE.—

(1) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

(A) transportation networks;

(B) flows of people, goods, vehicles, and craft over the networks; and

(C) social, economic, and environmental conditions that affect or are affected by the networks.

(2) INTERMODAL NETWORK ANALYSIS.—The databases shall be able to support intermodal network analysis.

(h) MANDATORY RESPONSE AUTHORITY FOR FREIGHT DATA COLLECTION.—Whoever, being the owner, official, agent, person in charge, or assistant to the person in charge of any freight corporation, company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau, to answer completely and correctly to the best of the individual's knowledge all questions relating to the

corporation, company, business, institution, establishment, or other organization, or to make available records or statistics in the individual's official custody, contained in a data collection request prepared and submitted under the authority of subsection (c)(1), shall be fined not more than \$500; but if the individual willfully gives a false answer to such a question, the individual shall be fined not more than \$10,000.

(i) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

(1) investigation of the subjects specified in subsection (c)(5) and research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

(2) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

(3) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (f); and

(4) development and improvement of methods for sharing geographic data, in support of the database under subsection (g) and the National Spatial Data Infrastructure.

(j) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

(1) to authorize the Bureau to require any other department or agency to collect data; or

(2) to reduce the authority of any other officer of the Department to collect and disseminate data independently.

(k) PROHIBITION ON CERTAIN DISCLOSURES.—

(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

(A) make any disclosure in which the data provided by an individual or organization under subsection (c) can be identified;

(B) use the information provided under subsection (c) for a nonstatistical purpose; or

(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c).

(2) COPIES OF REPORTS.—

(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c) with the Bureau or retained by an individual respondent.

(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

(i) shall be immune from legal process; and

(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

(3) INFORMING RESPONDENT OF USE OF DATA.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent who is requested or required to supply the data or information of the nonstatistical purpose.

(I) TRANSPORTATION STATISTICS ANNUAL REPORT.—The Director shall submit to the President and Congress a transportation statistics annual report which shall include information on items referred to in subsection (c)(5), documentation of methods used to obtain and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

(m) DATA ACCESS.—The Director shall have access to transportation and transportation-related information in the possession of any Federal agency, except information—

- (1) the disclosure of which to another Federal agency is expressly prohibited by law; or
- (2) the disclosure of which the agency possessing the information determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

(n) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

(O) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—

(1) ESTABLISHMENT.—The Director shall establish an advisory council on transportation statistics.

(2) FUNCTION.—The function of the advisory council established under this subsection is to—

(A) advise the Director on the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department;

(B) provide input to and review the report to Congress under subsection (d)(4); and

(C) advise the Director on methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

(3) MEMBERSHIP.—The advisory council established under this subsection shall be com-

posed of not fewer than 9 and not more than 11 members appointed by the Director, who are not officers or employees of the United States. Each member shall have expertise in transportation data collection or analysis or application; except that 1 member shall have expertise in economics, 1 member shall have expertise in statistics, and 1 member shall have experience in transportation safety. At least 1 member shall be a senior official of a State department of transportation. Members shall include representation of a cross-section of transportation community stakeholders.

(4) TERMS OF APPOINTMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), members of the advisory council shall be appointed to staggered terms not to exceed 3 years. A member may be renominated for 1 additional 3-year term.

(B) CURRENT MEMBERS.—Members serving on the Advisory Council on Transportation Statistics as of the date of enactment of the SAFETEA-LU shall serve until the end of their appointed terms.

(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall apply to the advisory council established under this subsection, except that section 14 of such Act shall not apply.

(Added Pub. L. 102-240, title VI, §6006(a), Dec. 18, 1991, 105 Stat. 2172; amended Pub. L. 104-287, §5(2), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 104-324, title XI, §1131, Oct. 19, 1996, 110 Stat. 3985; Pub. L. 105-130, §4(b)(1), Dec. 1, 1997, 111 Stat. 2556; Pub. L. 105-178, title V, §5109(a), June 9, 1998, 112 Stat. 437; Pub. L. 108-426, §3(a), (b), Nov. 30, 2004, 118 Stat. 2424, 2425; Pub. L. 109-59, title V, §5601(a), Aug. 10, 2005, 119 Stat. 1833.)

REFERENCES IN TEXT

Executive Order No. 12906, referred to in subsec. (c)(6), is set out as a note under section 1457 of Title 43, Public Lands.

The Government Performance and Results Act of 1993, referred to in subsec. (c)(8), is Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285, as amended, which enacted sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, section 306 of Title 5, Government Organization and Employees, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

The date of enactment of the SAFETEA-LU, referred to in subsecs. (d)(1) and (o)(4)(B), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

The Federal Advisory Committee Act, referred to in subsec. (o)(5), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2005—Pub. L. 109-59 reenacted section catchline without change and amended text generally, adding subsecs. (d), (h), (m), and (o) and substituting subsecs. (a) to (c), (e) to (g), (i) to (l), and (n) for former text consisting of subsecs. (a) to (k) which contained somewhat similar provisions.

2004—Subsec. (a). Pub. L. 108-426, §3(a), substituted “in the Research and Innovative Technology Administration” for “in the Department of Transportation”.

Subsec. (b)(1). Pub. L. 108-426, §3(b)(1), added par. (1) and struck out heading and text of former par. (1). Text

read as follows: “The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.”

Subsec. (b)(3), (4). Pub. L. 108-426, §3(b)(2), struck out heading and text of pars. (3) and (4) which read as follows:

“(3) REPORTING.—The Director shall report directly to the Secretary.

“(4) TERM.—The term of the Director shall be 4 years. The Director may continue to serve after the expiration of the term until a successor is appointed and confirmed.”

1998—Subsec. (b)(4). Pub. L. 105-178, §5109(a)(1), struck out after first sentence “The term of the first Director to be appointed shall begin on the 180th day after December 18, 1991.”

Subsec. (c)(1)(L). Pub. L. 105-178, §5109(a)(2)(A), added subpar. (L).

Subsec. (c)(2). Pub. L. 105-178, §5109(a)(2)(B)(i), substituted “transportation systems of the United States” for “national transportation system” in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 105-178, §5109(a)(2)(B)(ii), added subpar. (A) and struck out former subpar. (A) which read as follows: “be coordinated with efforts to develop performance indicators for the national transportation system undertaken pursuant to section 307(b)(3) of title 23, United States Code;”

Subsec. (c)(2)(C). Pub. L. 105-178, §5109(a)(2)(B)(iii), inserted “, made relevant to the States and metropolitan planning organizations,” after “accuracy”.

Subsec. (c)(3). Pub. L. 105-178, §5109(a)(2)(C), inserted at end “The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993, and the amendments made by such Act, and shall carry out such other reviews of the sources and reliability of other data collected by the heads of the operating administrations of the Department as shall be requested by the Secretary.”

Subsec. (c)(7). Pub. L. 105-178, §5109(a)(2)(D), added par. (7).

Subsecs. (d) to (f). Pub. L. 105-178, §5109(a)(5), added subsecs. (d) to (f). Former subsecs. (d) to (f) redesignated (h) to (j), respectively.

Subsec. (g). Pub. L. 105-178, §5109(a)(4), (5), added subsec. (g) and struck out heading and text of former subsec. (g). Text read as follows: “An individual who, on December 18, 1991, is performing any function required by this section to be performed by the Director may continue to perform such function until such function is undertaken by the Director.”

Subsec. (h). Pub. L. 105-178, §5109(a)(3), redesignated subsec. (d) as (h).

Subsec. (i). Pub. L. 105-178, §5109(a)(6), added subsec. (i) and struck out heading and text of former subsec. (i). Text read as follows: “Information compiled by the Bureau shall not be disclosed publicly in a manner that would reveal the personal identity of any individual, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), or to reveal trade secrets or allow commercial or financial information provided by any person to be identified with such person.”

Pub. L. 105-178, §5109(a)(3), redesignated subsec. (e) as (i).

Subsec. (j). Pub. L. 105-178, §5109(a)(7), substituted “The Director” for “On or before January 1, 1994, and annually thereafter, the Director”.

Pub. L. 105-178, §5109(a)(3), redesignated subsec. (f) as (j).

Subsec. (k). Pub. L. 105-178, §5109(a)(8), added subsec. (k).

1997—Pub. L. 105-130 made technical amendment to directory language of Pub. L. 102-240, §6006(a), which enacted this section.

1996—Subsec. (b)(4). Pub. L. 104-324 inserted at end “The Director may continue to serve after the expiration

of the term until a successor is appointed and confirmed.”

Pub. L. 104-287 substituted “December 18, 1991” for “the date of the enactment of this section”.

Subsec. (g). Pub. L. 104-287 substituted “December 18, 1991” for “the date of the enactment of this section”.

OFFICE OF AIRLINE INFORMATION

Pub. L. 106-181, title I, §103(b), Apr. 5, 2000, 114 Stat. 67, provided that: “There is authorized to be appropriated from the Airport and Airway Trust Fund to the Secretary [of Transportation] \$4,000,000 for fiscal years beginning after September 30, 2000, to fund the activities of the Office of Airline Information in the Bureau of Transportation Statistics of the Department of Transportation.”

INTERNATIONAL TRADE TRAFFIC

Pub. L. 105-178, title V, §5115, June 9, 1998, 112 Stat. 446, as amended by Pub. L. 105-206, title IX, §9011(e), July 22, 1998, 112 Stat. 864, provided that:

“(a) STUDY.—The Director of the Bureau of Transportation Statistics shall carry out a study—

“(1) to measure the ton-miles and value-miles of international trade traffic carried by highway for each State;

“(2) to evaluate the accuracy and reliability of such measures for use in the formula for highway apportionments;

“(3) to evaluate the accuracy and reliability of the use of diesel fuel data as a measure of international trade traffic by State; and

“(4) to identify needed improvements in long-term data collection programs to provide accurate and reliable measures of international traffic for use in the formula for highway apportionments.

“(b) BASIS FOR EVALUATIONS.—The study shall evaluate the accuracy and reliability of measures for use as formula factors based on statistical quality standards developed by the Bureau of Transportation Statistics, in consultation with the Committee on National Statistics of the National Academy of Sciences.

“(c) REPORT.—Not later than 3 years after the date of enactment of this Act [June 9, 1998], the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study carried out under subsection (a), including recommendations for changes in law necessary to implement the identified needs for improvements in long-term data collection programs.”

ADVISORY COUNCIL ON TRANSPORTATION STATISTICS

Section 6007 of Pub. L. 102-240 provided that:

“(a) ESTABLISHMENT.—The Director of the Bureau of Transportation Statistics shall establish an Advisory Council on Transportation Statistics.

“(b) FUNCTION.—It shall be the function of the advisory council established under this section to advise the Director of the Bureau of Transportation Statistics on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau of Transportation Statistics are of high quality and are based upon the best available objective information.

“(c) MEMBERSHIP.—The advisory council established under this section shall be composed of not more than 6 members appointed by the Director who are not officers or employees of the United States and who (except for 1 member who shall have expertise in economics and 1 member who shall have expertise in statistics) have expertise in transportation statistics and analysis.

“(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act [5 U.S.C. App.] shall apply to the advisory council established under this section, except that section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee established under this section.”

STUDY OF DATA COLLECTION PROCEDURES AND
CAPABILITIES OF DEPARTMENT OF TRANSPORTATION

Section 6008 of Pub. L. 102-240 provided that:

“(a) **STUDY.**—Not later than 1 year after the date of the establishment of the Bureau of Transportation Statistics, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study on the adequacy of data collection procedures and capabilities of the Department of Transportation.

“(b) **CONSULTATION.**—The Secretary shall enter into the agreement under subsection (a) in consultation with the Director of the Bureau of Transportation Statistics.

“(c) **CONTENTS.**—The study under subsection (a) shall include an evaluation of the Department of Transportation’s data collection resources, needs, and requirements and an assessment and evaluation of the systems, capabilities, and procedures established by the Department to meet such needs and requirements, including the following:

“(1) Data collection procedures and capabilities.

“(2) Data analysis procedures and capabilities.

“(3) Ability of data bases to integrate with one another.

“(4) Computer hardware and software capabilities.

“(5) Information management systems, including the ability of information management systems to integrate with one another.

“(6) Availability and training of the personnel of the Department.

“(7) Budgetary needs and resources of the Department for data collection.

“(d) **REPORT.**—Not later than 18 months after the date of the agreement under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study under this section, including recommendations for improving the Department of Transportation’s data collection systems, capabilities, procedures, and analytical hardware and software and recommendations for improving the Department’s management information systems.”

§ 112. Research and Innovative Technology Administration

(a) **ESTABLISHMENT.**—The Research and Innovative Technology Administration shall be an administration in the Department of Transportation.

(b) **ADMINISTRATOR.**—

(1) **APPOINTMENT.**—The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) **REPORTING.**—The Administrator shall report directly to the Secretary.

(c) **DEPUTY ADMINISTRATOR.**—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary of Transportation. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(d) **POWERS AND DUTIES OF THE ADMINISTRATOR.**—The Administrator shall carry out—

(1) powers and duties prescribed by the Secretary for—

(A) coordination, facilitation, and review of the Department’s research and development programs and activities;

(B) advancement, and research and development, of innovative technologies, including intelligent transportation systems;

(C) comprehensive transportation statistics research, analysis, and reporting;

(D) education and training in transportation and transportation-related fields; and

(E) activities of the Volpe National Transportation Center; and

(2) other powers and duties prescribed by the Secretary.

(e) **ADMINISTRATIVE AUTHORITIES.**—The Administrator may enter into grants and cooperative agreements with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons—

(1) to conduct research into transportation service and infrastructure assurance; and

(2) to carry out other research activities of the Administration.

(Added Pub. L. 102-508, title IV, §401(a), Oct. 24, 1992, 106 Stat. 3310; amended Pub. L. 103-429, §6(1), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 108-426, §4(a), Nov. 30, 2004, 118 Stat. 2425; Pub. L. 109-59, title VII, §7301, Aug. 10, 2005, 119 Stat. 1914.)

AMENDMENTS

2005—Subsec. (e). Pub. L. 109-59 added subsec. (e).

2004—Pub. L. 108-426, §4(a)(1), substituted “Research and Innovative Technology Administration” for “Research and Special Programs Administration” in section catchline.

Subsec. (a). Pub. L. 108-426, §4(a)(2), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “There is established in the Department of Transportation a Research and Special Programs Administration.”

Subsec. (d). Pub. L. 108-426, §4(a)(3), added subsec. (d) and struck out heading and text of former subsec. (d) which related to the responsibilities of the Administrator of the Research and Special Programs Administration.

Subsec. (e). Pub. L. 108-426, §4(a)(4), struck out heading and text of subsec. (e). Text read as follows: “Nothing in this section shall affect any delegation of authority, regulation, order, approval, exemption, waiver, contract, or other administrative act of the Secretary with respect to laws administered through the Research and Special Programs Administration of the Department of Transportation on October 24, 1992.”

1994—Subsec. (e). Pub. L. 103-429 substituted “October 24, 1992” for “the date of the enactment of this section”.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
PROGRAMS ADMINISTERED BY SECRETARY OF TRANSPORTATION

Pub. L. 108-426, §4(b), Nov. 30, 2004, 118 Stat. 2425, provided that:

“(1) **IN GENERAL.**—Nothing in this Act [see Short Title of 2004 Amendment note set out under section 101 of this title] shall grant any authority to the Research and Innovative Technology Administration over research and other programs, activities, standards, or regulations administered by the Secretary of Transportation through the National Highway Traffic Safety Administration.

“(2) **APPLICABILITY.**—Paragraph (1) shall not apply to the research and other programs, activities, standards, or regulations provided for in highway and traffic safety programs, administered by the Secretary through the National Highway Traffic Safety Administration, in title 23, United States Code, and chapter 303 of title 49, United States Code, as in effect on the date of enactment of this Act [Nov. 30, 2004].”

TRANSFER OF DUTIES AND POWERS OF RESEARCH AND
SPECIAL PROGRAMS ADMINISTRATION

Pub. L. 108-426, §4(d), Nov. 30, 2004, 118 Stat. 2426, provided that: “The authority of the Research and Special Programs Administration, other than authority exercised under chapters 51, 57, 61, 601, and 603 of title 49,

United States Code, is transferred to the Administrator of the Research and Innovative Technology Administration.”

For transfer of authority of the Research and Special Programs Administration exercised under chapters 51, 57, 61, 601, and 603 of this title 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.

DEVELOPMENT OF UNDERGROUND UTILITY LOCATION
TECHNOLOGIES

Section 306 of Pub. L. 102–508 provided that:

“(a) IN GENERAL.—The Secretary of Transportation shall carry out a research and development program on underground utility location technologies.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.”

§ 113. Federal Motor Carrier Safety Administration

(a) IN GENERAL.—The Federal Motor Carrier Safety Administration shall be an administration of the Department of Transportation.

(b) SAFETY AS HIGHEST PRIORITY.—In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in motor carrier transportation.

(c) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in motor carrier safety. The Administrator shall report directly to the Secretary of Transportation.

(d) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(e) CHIEF SAFETY OFFICER.—The Administration shall have an Assistant Federal Motor Carrier Safety Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator shall be the Chief Safety Officer of the Administration. The Assistant Administrator shall carry out the duties and powers prescribed by the Administrator.

(f) POWERS AND DUTIES.—The Administrator shall carry out—

(1) duties and powers related to motor carriers or motor carrier safety vested in the Secretary by chapters 5, 51, 55, 57, 59, 133 through 149, 311, 313, 315, and 317 and by section 18 of the Noise Control Act of 1972 (42 U.S.C. 4917; 86 Stat. 1249–1250); except as otherwise delegated by the Secretary to any agency of the Department of Transportation other than the Federal Highway Administration, as of October 8, 1999; and

(2) additional duties and powers prescribed by the Secretary.

(g) LIMITATION ON TRANSFER OF POWERS AND DUTIES.—A duty or power specified in subsection (f)(1) may only be transferred to another part of

the Department when specifically provided by law.

(h) EFFECT OF CERTAIN DECISIONS.—A decision of the Administrator involving a duty or power specified in subsection (f)(1) and involving notice and hearing required by law is administratively final.

(i) CONSULTATION.—The Administrator shall consult with the Federal Highway Administrator and with the National Highway Traffic Safety Administrator on matters related to highway and motor carrier safety.

(Added Pub. L. 106–159, title I, §101(a), Dec. 9, 1999, 113 Stat. 1750.)

EFFECTIVE DATE

Section effective Jan. 1, 2000, see section 107(a) of Pub. L. 106–159, set out as an Effective Date of 1999 Amendment note under section 104 of this title.

FINDINGS

Pub. L. 106–159, §3, Dec. 9, 1999, 113 Stat. 1749, provided that: “Congress makes the following findings:

“(1) The current rate, number, and severity of crashes involving motor carriers in the United States are unacceptable.

“(2) The number of Federal and State commercial motor vehicle and operator inspections is insufficient and civil penalties for violators must be utilized to deter future violations.

“(3) The Department of Transportation is failing to meet statutorily mandated deadlines for completing rulemaking proceedings on motor carrier safety and, in some significant safety rulemaking proceedings, including driver hours-of-service regulations, extensive periods have elapsed without progress toward resolution or implementation.

“(4) Too few motor carriers undergo compliance reviews and the Department’s data bases and information systems require substantial improvement to enhance the Department’s ability to target inspection and enforcement resources toward the most serious safety problems and to improve States’ ability to keep dangerous drivers off the roads.

“(5) Additional safety inspectors and inspection facilities are needed in international border areas to ensure that commercial motor vehicles, drivers, and carriers comply with United States safety standards.

“(6) The Department should rigorously avoid conflicts of interest in federally funded research.

“(7) Meaningful measures to improve safety must be implemented expeditiously to prevent increases in motor carrier crashes, injuries, and fatalities.

“(8) Proper use of Federal resources is essential to the Department’s ability to improve its research, rulemaking, oversight, and enforcement activities related to commercial motor vehicles, operators, and carriers.”

PURPOSES

Pub. L. 106–159, §4, Dec. 9, 1999, 113 Stat. 1749, provided that: “The purposes of this Act [see Tables for classification] are—

“(1) to improve the administration of the Federal motor carrier safety program and to establish a Federal Motor Carrier Safety Administration in the Department of Transportation; and

“(2) to reduce the number and severity of large-truck involved crashes through more commercial motor vehicle and operator inspections and motor carrier compliance reviews, stronger enforcement measures against violators, expedited completion of rulemaking proceedings, scientifically sound research, and effective commercial driver’s license testing, recordkeeping and sanctions.”

SAVINGS PROVISION

Pub. L. 106–159, title I, §106, Dec. 9, 1999, 113 Stat. 1756, provided that:

“(a) TRANSFER OF ASSETS AND PERSONNEL.—Except as otherwise provided in this Act [see Tables for classification] and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Federal Motor Carrier Safety Administration by this Act shall be transferred to the Administration for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Office of Motor Carrier Safety (including any predecessor entity) shall also be transferred to the Administration.

“(b) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

“(1) that have been issued, made, granted, or allowed to become effective by the Office, any officer or employee of the Office, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act or the amendments made by this Act; and

“(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Administration, any other authorized official, a court of competent jurisdiction, or operation of law.

“(c) PROCEEDINGS.—

“(1) IN GENERAL.—The provisions of this Act shall not affect any proceedings or any application for any license pending before the Office at the time this Act takes effect [see Effective Date of 1999 Amendment note set out under section 104 of this title], insofar as those functions are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

“(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

“(3) ORDERLY TRANSFER.—The Secretary is authorized to provide for the orderly transfer of pending proceedings from the Office.

“(d) SUITS.—

“(1) IN GENERAL.—This Act shall not affect suits commenced before the date of the enactment of this Act [Dec. 9, 1999], except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

“(2) SUITS BY OR AGAINST OMCS.—Any suit by or against the Office begun before January 1, 2000, shall be continued, insofar as it involves a function retained and transferred under this Act, with the Administration (to the extent the suit involves functions transferred to the Administration under this Act) substituted for the Office.

“(3) REMANDED CASES.—If the court in a suit described in paragraph (1) remands a case to the Administration, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

“(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or

against any officer in his official capacity as an officer of the Office shall abate by reason of the enactment of this Act. No cause of action by or against the Office, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act.

“(f) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Administration may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.

“(g) REFERENCES.—Any reference to the Office in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Office or an officer or employee of the Office is deemed to refer to the Administration or a member or employee of the Administration, as appropriate.”

§ 114. Transportation Security Administration

(a) IN GENERAL.—The Transportation Security Administration shall be an administration of the Department of Transportation.

(b) UNDER SECRETARY.—

(1) APPOINTMENT.—The head of the Administration shall be the Under Secretary of Transportation for Security. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—The Under Secretary must—

(A) be a citizen of the United States; and

(B) have experience in a field directly related to transportation or security.

(3) TERM.—The term of office of an individual appointed as the Under Secretary shall be 5 years.

(c) LIMITATION ON OWNERSHIP OF STOCKS AND BONDS.—The Under Secretary may not own stock in or bonds of a transportation or security enterprise or an enterprise that makes equipment that could be used for security purposes.

(d) FUNCTIONS.—The Under Secretary shall be responsible for security in all modes of transportation, including—

(1) carrying out chapter 449, relating to civil aviation security, and related research and development activities; and

(2) security responsibilities over other modes of transportation that are exercised by the Department of Transportation.

(e) SCREENING OPERATIONS.—The Under Secretary shall—

(1) be responsible for day-to-day Federal security screening operations for passenger air transportation and intrastate air transportation under sections 44901 and 44935;

(2) develop standards for the hiring and retention of security screening personnel;

(3) train and test security screening personnel; and

(4) be responsible for hiring and training personnel to provide security screening at all airports in the United States where screening is required under section 44901, in consultation with the Secretary of Transportation and the heads of other appropriate Federal agencies and departments.

(f) ADDITIONAL DUTIES AND POWERS.—In addition to carrying out the functions specified in

subsections (d) and (e), the Under Secretary shall—

(1) receive, assess, and distribute intelligence information related to transportation security;

(2) assess threats to transportation;

(3) develop policies, strategies, and plans for dealing with threats to transportation security;

(4) make other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States Government;

(5) serve as the primary liaison for transportation security to the intelligence and law enforcement communities;

(6) on a day-to-day basis, manage and provide operational guidance to the field security resources of the Administration, including Federal Security Managers as provided by section 44933;

(7) enforce security-related regulations and requirements;

(8) identify and undertake research and development activities necessary to enhance transportation security;

(9) inspect, maintain, and test security facilities, equipment, and systems;

(10) ensure the adequacy of security measures for the transportation of cargo;

(11) oversee the implementation, and ensure the adequacy, of security measures at airports and other transportation facilities;

(12) require background checks for airport security screening personnel, individuals with access to secure areas of airports, and other transportation security personnel;

(13) work in conjunction with the Administrator of the Federal Aviation Administration with respect to any actions or activities that may affect aviation safety or air carrier operations;

(14) work with the International Civil Aviation Organization and appropriate aeronautical authorities of foreign governments under section 44907 to address security concerns on passenger flights by foreign air carriers in foreign air transportation; and

(15) carry out such other duties, and exercise such other powers, relating to transportation security as the Under Secretary considers appropriate, to the extent authorized by law.

(g) NATIONAL EMERGENCY RESPONSIBILITIES.—

(1) IN GENERAL.—Subject to the direction and control of the Secretary, the Under Secretary, during a national emergency, shall have the following responsibilities:

(A) To coordinate domestic transportation, including aviation, rail, and other surface transportation, and maritime transportation (including port security).

(B) To coordinate and oversee the transportation-related responsibilities of other departments and agencies of the Federal Government other than the Department of Defense and the military departments.

(C) To coordinate and provide notice to other departments and agencies of the Federal Government, and appropriate agencies of State and local governments, including

departments and agencies for transportation, law enforcement, and border control, about threats to transportation.

(D) To carry out such other duties, and exercise such other powers, relating to transportation during a national emergency as the Secretary shall prescribe.

(2) AUTHORITY OF OTHER DEPARTMENTS AND AGENCIES.—The authority of the Under Secretary under this subsection shall not supersede the authority of any other department or agency of the Federal Government under law with respect to transportation or transportation-related matters, whether or not during a national emergency.

(3) CIRCUMSTANCES.—The Secretary shall prescribe the circumstances constituting a national emergency for purposes of this subsection.

(h) MANAGEMENT OF SECURITY INFORMATION.—In consultation with the Transportation Security Oversight Board, the Under Secretary shall—

(1) enter into memoranda of understanding with Federal agencies or other entities to share or otherwise cross-check as necessary data on individuals identified on Federal agency databases who may pose a risk to transportation or national security;

(2) establish procedures for notifying the Administrator of the Federal Aviation Administration, appropriate State and local law enforcement officials, and airport or airline security officers of the identity of individuals known to pose, or suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety;

(3) in consultation with other appropriate Federal agencies and air carriers, establish policies and procedures requiring air carriers—

(A) to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation or national security; and

(B) if such an individual is identified, notify appropriate law enforcement agencies, prevent the individual from boarding an aircraft, or take other appropriate action with respect to that individual; and

(4) consider requiring passenger air carriers to share passenger lists with appropriate Federal agencies for the purpose of identifying individuals who may pose a threat to aviation safety or national security.

(i) VIEW OF NTSB.—In taking any action under this section that could affect safety, the Under Secretary shall give great weight to the timely views of the National Transportation Safety Board.

(j) ACQUISITIONS.—

(1) IN GENERAL.—The Under Secretary is authorized—

(A) to acquire (by purchase, lease, condemnation, or otherwise) such real property, or any interest therein, within and outside the continental United States, as the Under Secretary considers necessary;

(B) to acquire (by purchase, lease, condemnation, or otherwise) and to construct,

repair, operate, and maintain such personal property (including office space and patents), or any interest therein, within and outside the continental United States, as the Under Secretary considers necessary;

(C) to lease to others such real and personal property and to provide by contract or otherwise for necessary facilities for the welfare of its employees and to acquire, maintain, and operate equipment for these facilities;

(D) to acquire services, including such personal services as the Secretary determines necessary, and to acquire (by purchase, lease, condemnation, or otherwise) and to construct, repair, operate, and maintain research and testing sites and facilities; and

(E) in cooperation with the Administrator of the Federal Aviation Administration, to utilize the research and development facilities of the Federal Aviation Administration.

(2) TITLE.—Title to any property or interest therein acquired pursuant to this subsection shall be held by the Government of the United States.

(k) TRANSFERS OF FUNDS.—The Under Secretary is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions transferred, on or after the date of enactment of the Aviation and Transportation Security Act, by law to the Under Secretary.

(l) REGULATIONS.—

(1) IN GENERAL.—The Under Secretary is authorized to issue, rescind, and revise such regulations as are necessary to carry out the functions of the Administration.

(2) EMERGENCY PROCEDURES.—

(A) IN GENERAL.—Notwithstanding any other provision of law or executive order (including an executive order requiring a cost-benefit analysis), if the Under Secretary determines that a regulation or security directive must be issued immediately in order to protect transportation security, the Under Secretary shall issue the regulation or security directive without providing notice or an opportunity for comment and without prior approval of the Secretary.

(B) REVIEW BY TRANSPORTATION SECURITY OVERSIGHT BOARD.—Any regulation or security directive issued under this paragraph shall be subject to review by the Transportation Security Oversight Board established under section 115. Any regulation or security directive issued under this paragraph shall remain effective for a period not to exceed 90 days unless ratified or disapproved by the Board or rescinded by the Under Secretary.

(3) FACTORS TO CONSIDER.—In determining whether to issue, rescind, or revise a regulation under this section, the Under Secretary shall consider, as a factor in the final determination, whether the costs of the regulation are excessive in relation to the enhancement of security the regulation will provide. The Under Secretary may waive requirements for an analysis that estimates the number of lives

that will be saved by the regulation and the monetary value of such lives if the Under Secretary determines that it is not feasible to make such an estimate.

(4) AIRWORTHINESS OBJECTIONS BY FAA.—

(A) IN GENERAL.—The Under Secretary shall not take an aviation security action under this title if the Administrator of the Federal Aviation Administration notifies the Under Secretary that the action could adversely affect the airworthiness of an aircraft.

(B) REVIEW BY SECRETARY.—Notwithstanding subparagraph (A), the Under Secretary may take such an action, after receiving a notification concerning the action from the Administrator under subparagraph (A), if the Secretary of Transportation subsequently approves the action.

(m) PERSONNEL AND SERVICES; COOPERATION BY UNDER SECRETARY.—

(1) AUTHORITY OF UNDER SECRETARY.—In carrying out the functions of the Administration, the Under Secretary shall have the same authority as is provided to the Administrator of the Federal Aviation Administration under subsections (l) and (m) of section 106.

(2) AUTHORITY OF AGENCY HEADS.—The head of a Federal agency shall have the same authority to provide services, supplies, equipment, personnel, and facilities to the Under Secretary as the head has to provide services, supplies, equipment, personnel, and facilities to the Administrator of the Federal Aviation Administration under section 106(m).

(n) PERSONNEL MANAGEMENT SYSTEM.—The personnel management system established by the Administrator of the Federal Aviation Administration under section 40122 shall apply to employees of the Transportation Security Administration, or, subject to the requirements of such section, the Under Secretary may make such modifications to the personnel management system with respect to such employees as the Under Secretary considers appropriate, such as adopting aspects of other personnel systems of the Department of Transportation.

(o) AUTHORITY OF INSPECTOR GENERAL.—The Transportation Security Administration shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.) and other laws relating to the authority of the Inspector General of the Department of Transportation.

(p) LAW ENFORCEMENT POWERS.—

(1) IN GENERAL.—The Under Secretary may designate an employee of the Transportation Security Administration or other Federal agency to serve as a law enforcement officer.

(2) POWERS.—While engaged in official duties of the Administration as required to fulfill the responsibilities under this section, a law enforcement officer designated under paragraph (1) may—

(A) carry a firearm;

(B) make an arrest without a warrant for any offense against the United States committed in the presence of the officer, or for any felony cognizable under the laws of the United States if the officer has probable cause to believe that the person to be ar-

rested has committed or is committing the felony; and

(C) seek and execute warrants for arrest or seizure of evidence issued under the authority of the United States upon probable cause that a violation has been committed.

(3) GUIDELINES ON EXERCISE OF AUTHORITY.—The authority provided by this subsection shall be exercised in accordance with guidelines prescribed by the Under Secretary, in consultation with the Attorney General of the United States, and shall include adherence to the Attorney General's policy on use of deadly force.

(4) REVOCATION OR SUSPENSION OF AUTHORITY.—The powers authorized by this subsection may be rescinded or suspended should the Attorney General determine that the Under Secretary has not complied with the guidelines prescribed in paragraph (3) and conveys the determination in writing to the Secretary of Transportation and the Under Secretary.

(q) AUTHORITY TO EXEMPT.—The Under Secretary may grant an exemption from a regulation prescribed in carrying out this section if the Under Secretary determines that the exemption is in the public interest.

(r) NONDISCLOSURE OF SECURITY ACTIVITIES.—

(1) IN GENERAL.—Notwithstanding section 552 of title 5, the Under Secretary shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107-71) or under chapter 449 of this title if the Under Secretary decides that disclosing the information would—

(A) be an unwarranted invasion of personal privacy;

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

(C) be detrimental to the security of transportation.

(2) AVAILABILITY OF INFORMATION TO CONGRESS.—Paragraph (1) does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) LIMITATION ON TRANSFERABILITY OF DUTIES.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this subsection to another department, agency, or instrumentality of the United States.

(4) LIMITATIONS.—Nothing in this subsection, or any other provision of law, shall be construed to authorize the designation of information as sensitive security information (as defined in section 1520.5 of title 49, Code of Federal Regulations)—

(A) to conceal a violation of law, inefficiency, or administrative error;

(B) to prevent embarrassment to a person, organization, or agency;

(C) to restrain competition; or

(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.

(s) TRANSPORTATION SECURITY STRATEGIC PLANNING.—

(1) IN GENERAL.—The Secretary of Homeland Security shall develop, prepare, implement, and update, as needed—

(A) a National Strategy for Transportation Security; and

(B) transportation modal security plans addressing security risks, including threats, vulnerabilities, and consequences, for aviation, railroad, ferry, highway, maritime, pipeline, public transportation, over-the-road bus, and other transportation infrastructure assets.

(2) ROLE OF SECRETARY OF TRANSPORTATION.—The Secretary of Homeland Security shall work jointly with the Secretary of Transportation in developing, revising, and updating the documents required by paragraph (1).

(3) CONTENTS OF NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—The National Strategy for Transportation Security shall include the following:

(A) An identification and evaluation of the transportation assets in the United States that, in the interests of national security and commerce, must be protected from attack or disruption by terrorist or other hostile forces, including modal security plans for aviation, bridge and tunnel, commuter rail and ferry, highway, maritime, pipeline, rail, mass transit, over-the-road bus, and other public transportation infrastructure assets that could be at risk of such an attack or disruption.

(B) The development of risk-based priorities, based on risk assessments conducted or received by the Secretary of Homeland Security (including assessments conducted under the Implementing Recommendations of the 9/11 Commission Act of 2007¹ across all transportation modes and realistic deadlines for addressing security needs associated with those assets referred to in subparagraph (A).

(C) The most appropriate, practical, and cost-effective means of defending those assets against threats to their security.

(D) A forward-looking strategic plan that sets forth the agreed upon roles and missions of Federal, State, regional, local, and tribal authorities and establishes mechanisms for encouraging cooperation and participation by private sector entities, including non-profit employee labor organizations, in the implementation of such plan.

(E) A comprehensive delineation of prevention, response, and recovery responsibilities and issues regarding threatened and executed acts of terrorism within the United States and threatened and executed acts of terrorism outside the United States to the extent such acts affect United States transportation systems.

(F) A prioritization of research and development objectives that support transportation security needs, giving a higher priority to research and development directed to

¹ So in original. Probably should be followed by a closing parenthesis.

ward protecting vital transportation assets. Transportation security research and development projects shall be based, to the extent practicable, on such prioritization. Nothing in the preceding sentence shall be construed to require the termination of any research or development project initiated by the Secretary of Homeland Security or the Secretary of Transportation before the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(G) A 3- and 10-year budget for Federal transportation security programs that will achieve the priorities of the National Strategy for Transportation Security.

(H) Methods for linking the individual transportation modal security plans and the programs contained therein, and a plan for addressing the security needs of intermodal transportation.

(I) Transportation modal security plans described in paragraph (1)(B), including operational recovery plans to expedite, to the maximum extent practicable, the return to operation of an adversely affected transportation system following a major terrorist attack on that system or other incident. These plans shall be coordinated with the resumption of trade protocols required under section 202 of the SAFE Port Act (6 U.S.C. 942) and the National Maritime Transportation Security Plan required under section 70103(a) of title 46.

(4) SUBMISSIONS OF PLANS TO CONGRESS.—

(A) INITIAL STRATEGY.—The Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans, developed under this subsection to the appropriate congressional committees not later than April 1, 2005.

(B) SUBSEQUENT VERSIONS.—After December 31, 2005, the Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans and any revisions to the National Strategy for Transportation Security and the transportation modal security plans, to appropriate congressional committees not less frequently than April 1 of each even-numbered year.

(C) PERIODIC PROGRESS REPORT.—

(i) REQUIREMENT FOR REPORT.—Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to the appropriate congressional committees an assessment of the progress made on implementing the National Strategy for Transportation Security, including the transportation modal security plans.

(ii) CONTENT.—Each progress report submitted under this subparagraph shall include, at a minimum, the following:

(I) Recommendations for improving and implementing the National Strategy for Transportation Security and the transportation modal and intermodal security plans that the Secretary of Home-

land Security, in consultation with the Secretary of Transportation, considers appropriate.

(II) An accounting of all grants for transportation security, including grants and contracts for research and development, awarded by the Secretary of Homeland Security in the most recent fiscal year and a description of how such grants accomplished the goals of the National Strategy for Transportation Security.

(III) An accounting of all—

(aa) funds requested in the President's budget submitted pursuant to section 1105 of title 31 for the most recent fiscal year for transportation security, by mode;

(bb) personnel working on transportation security by mode, including the number of contractors; and

(cc) information on the turnover in the previous year among senior staff of the Department of Homeland Security, including component agencies, working on transportation security issues. Such information shall include the number of employees who have permanently left the office, agency, or area in which they worked, and the amount of time that they worked for the department.

(iii) WRITTEN EXPLANATION OF TRANSPORTATION SECURITY ACTIVITIES NOT DELINEATED IN THE NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—At the end of each fiscal year, the Secretary of Homeland Security shall submit to the appropriate congressional committees a written explanation of any Federal transportation security activity that is inconsistent with the National Strategy for Transportation Security, including the amount of funds to be expended for the activity and the number of personnel involved.

(D) CLASSIFIED MATERIAL.—Any part of the National Strategy for Transportation Security or the transportation modal security plans that involve information that is properly classified under criteria established by Executive order shall be submitted to the appropriate congressional committees separately in a classified format.

(E) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate congressional committees” means the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Homeland Security and Governmental Affairs, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(5) PRIORITY STATUS.—

(A) IN GENERAL.—The National Strategy for Transportation Security shall be the governing document for Federal transportation security efforts.

(B) OTHER PLANS AND REPORTS.—The National Strategy for Transportation Security shall include, as an integral part or as an appendix—

(i) the current National Maritime Transportation Security Plan under section 70103 of title 46;

(ii) the report required by section 44938 of this title;

(iii) transportation modal security plans required under this section;

(iv) the transportation sector specific plan required under Homeland Security Presidential Directive-7; and

(v) any other transportation security plan or report that the Secretary of Homeland Security determines appropriate for inclusion.

(6) COORDINATION.—In carrying out the responsibilities under this section, the Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall consult, as appropriate, with Federal, State, and local agencies, tribal governments, private sector entities (including nonprofit employee labor organizations), institutions of higher learning, and other entities.

(7) PLAN DISTRIBUTION.—The Secretary of Homeland Security shall make available and appropriately publicize an unclassified version of the National Strategy for Transportation Security, including its component transportation modal security plans, to Federal, State, regional, local and tribal authorities, transportation system owners or operators, private sector stakeholders, including nonprofit employee labor organizations representing transportation employees, institutions of higher learning, and other appropriate entities.

(u)² TRANSPORTATION SECURITY INFORMATION SHARING PLAN.—

(1) DEFINITIONS.—In this subsection:

(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” has the meaning given that term in subsection (t).³

(B) PLAN.—The term “Plan” means the Transportation Security Information Sharing Plan established under paragraph (2).

(C) PUBLIC AND PRIVATE STAKEHOLDERS.—The term “public and private stakeholders” means Federal, State, and local agencies, tribal governments, and appropriate private entities, including nonprofit employee labor organizations representing transportation employees.

(D) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

(E) TRANSPORTATION SECURITY INFORMATION.—The term “transportation security information” means information relating to the risks to transportation modes, including aviation, public transportation, railroad, ferry, highway, maritime, pipeline, and over-the-road bus transportation, and may include specific and general intelligence products, as appropriate.

(2) ESTABLISHMENT OF PLAN.—The Secretary of Homeland Security, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Secretary of Transportation, and public and private stakeholders, shall establish a Transportation Security Information Sharing Plan. In establishing the Plan, the Secretary shall gather input on the development of the Plan from private and public stakeholders and the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

(3) PURPOSE OF PLAN.—The Plan shall promote sharing of transportation security information between the Department of Homeland Security and public and private stakeholders.

(4) CONTENT OF PLAN.—The Plan shall include—

(A) a description of how intelligence analysts within the Department of Homeland Security will coordinate their activities within the Department and with other Federal, State, and local agencies, and tribal governments, including coordination with existing modal information sharing centers and the center described in section 1410 of the Implementing Recommendations of the 9/11 Commission Act of 2007;

(B) the establishment of a point of contact, which may be a single point of contact within the Department of Homeland Security, for each mode of transportation for the sharing of transportation security information with public and private stakeholders, including an explanation and justification to the appropriate congressional committees if the point of contact established pursuant to this subparagraph differs from the agency within the Department that has the primary authority, or has been delegated such authority by the Secretary, to regulate the security of that transportation mode;

(C) a reasonable deadline by which the Plan will be implemented; and

(D) a description of resource needs for fulfilling the Plan.

(5) COORDINATION WITH INFORMATION SHARING.—The Plan shall be—

(A) implemented in coordination, as appropriate, with the program manager for the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485); and

(B) consistent with the establishment of the information sharing environment and any policies, guidelines, procedures, instructions, or standards established by the President or the program manager for the implementation and management of the information sharing environment.

(6) REPORTS TO CONGRESS.—

(A) IN GENERAL.—Not later than 150 days after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit to the appropriate con-

² So in original. There is no subsec. (t).

³ So in original. Probably should be “subsection (s).”.

gressional committees, a report containing the Plan.

(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall submit to the appropriate congressional committees a report on updates to and the implementation of the Plan.

(7) SURVEY AND REPORT.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a biennial survey of the satisfaction of recipients of transportation intelligence reports disseminated under the Plan.

(B) INFORMATION SOUGHT.—The survey conducted under subparagraph (A) shall seek information about the quality, speed, regularity, and classification of the transportation security information products disseminated by the Department of Homeland Security to public and private stakeholders.

(C) REPORT.—Not later than 1 year after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and every even numbered year thereafter, the Comptroller General shall submit to the appropriate congressional committees, a report on the results of the survey conducted under subparagraph (A). The Comptroller General shall also provide a copy of the report to the Secretary.

(8) SECURITY CLEARANCES.—The Secretary shall, to the greatest extent practicable, take steps to expedite the security clearances needed for designated public and private stakeholders to receive and obtain access to classified information distributed under this section, as appropriate.

(9) CLASSIFICATION OF MATERIAL.—The Secretary, to the greatest extent practicable, shall provide designated public and private stakeholders with transportation security information in an unclassified format.

(v) ENFORCEMENT OF REGULATIONS AND ORDERS OF THE SECRETARY OF HOMELAND SECURITY.—

(1) APPLICATION OF SUBSECTION.—

(A) IN GENERAL.—This subsection applies to the enforcement of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of chapter 701 of title 46 and under a provision of this title other than a provision of chapter 449 (in this subsection referred to as an “applicable provision of this title”).

(B) VIOLATIONS OF CHAPTER 449.—The penalties for violations of regulations prescribed and orders issued by the Secretary of Homeland Security under chapter 449 of this title are provided under chapter 463 of this title.

(C) NONAPPLICATION TO CERTAIN VIOLATIONS.—

(i) Paragraphs (2) through (5) do not apply to violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title—

(I) involving the transportation of personnel or shipments of materials by contractors where the Department of De-

fense has assumed control and responsibility;

(II) by a member of the armed forces of the United States when performing official duties; or

(III) by a civilian employee of the Department of Defense when performing official duties.

(ii) Violations described in subclause (I), (II), or (III) of clause (i) shall be subject to penalties as determined by the Secretary of Defense or the Secretary’s designee.

(2) CIVIL PENALTY.—

(A) IN GENERAL.—A person is liable to the United States Government for a civil penalty of not more than \$10,000 for a violation of a regulation prescribed, or order issued, by the Secretary of Homeland Security under an applicable provision of this title.

(B) REPEAT VIOLATIONS.—A separate violation occurs under this paragraph for each day the violation continues.

(3) ADMINISTRATIVE IMPOSITION OF CIVIL PENALTIES.—

(A) IN GENERAL.—The Secretary of Homeland Security may impose a civil penalty for a violation of a regulation prescribed, or order issued, under an applicable provision of this title. The Secretary shall give written notice of the finding of a violation and the penalty.

(B) SCOPE OF CIVIL ACTION.—In a civil action to collect a civil penalty imposed by the Secretary under this subsection, a court may not re-examine issues of liability or the amount of the penalty.

(C) JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction of civil actions to collect a civil penalty imposed by the Secretary under this subsection if—

(i) the amount in controversy is more than—

(I) \$400,000, if the violation was committed by a person other than an individual or small business concern; or

(II) \$50,000 if the violation was committed by an individual or small business concern;

(ii) the action is in rem or another action in rem based on the same violation has been brought; or

(iii) another action has been brought for an injunction based on the same violation.

(D) MAXIMUM PENALTY.—The maximum civil penalty the Secretary administratively may impose under this paragraph is—

(i) \$400,000, if the violation was committed by a person other than an individual or small business concern; or

(ii) \$50,000, if the violation was committed by an individual or small business concern.

(E) NOTICE AND OPPORTUNITY TO REQUEST HEARING.—Before imposing a penalty under this section the Secretary shall provide to the person against whom the penalty is to be imposed—

- (i) written notice of the proposed penalty; and
- (ii) the opportunity to request a hearing on the proposed penalty, if the Secretary receives the request not later than 30 days after the date on which the person receives notice.

(4) COMPROMISE AND SETOFF.—

(A) The Secretary may compromise the amount of a civil penalty imposed under this subsection.

(B) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(5) INVESTIGATIONS AND PROCEEDINGS.—Chapter 461 shall apply to investigations and proceedings brought under this subsection to the same extent that it applies to investigations and proceedings brought with respect to aviation security duties designated to be carried out by the Secretary.

(6) DEFINITIONS.—In this subsection:

(A) PERSON.—The term “person” does not include—

- (i) the United States Postal Service; or
- (ii) the Department of Defense.

(B) SMALL BUSINESS CONCERN.—The term “small business concern” has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

(7) ENFORCEMENT TRANSPARENCY.—

(A) IN GENERAL.—Not later than December 31, 2008, and annually thereafter, the Secretary shall—

- (i) provide an annual summary to the public of all enforcement actions taken by the Secretary under this subsection; and
- (ii) include in each such summary the docket number of each enforcement action, the type of alleged violation, the penalty or penalties proposed, and the final assessment amount of each penalty.

(B) ELECTRONIC AVAILABILITY.—Each summary under this paragraph shall be made available to the public by electronic means.

(C) RELATIONSHIP TO THE FREEDOM OF INFORMATION ACT AND THE PRIVACY ACT.—Nothing in this subsection shall be construed to require disclosure of information or records that are exempt from disclosure under sections 552 or 552a of title 5.

(D) ENFORCEMENT GUIDANCE.—Not later than 180 days after the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary shall provide a report to the public describing the enforcement process established under this subsection.

(w) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for—

- (1) railroad security—
 - (A) \$488,000,000 for fiscal year 2008;
 - (B) \$483,000,000 for fiscal year 2009;
 - (C) \$508,000,000 for fiscal year 2010; and
 - (D) \$508,000,000 for fiscal year 2011;

- (2) over-the-road bus and trucking security—
 - (A) \$14,000,000 for fiscal year 2008;
 - (B) \$27,000,000 for fiscal year 2009;
 - (C) \$27,000,000 for fiscal year 2010; and
 - (D) \$27,000,000 for fiscal year 2011; and

(3) hazardous material and pipeline security—

- (A) \$12,000,000 for fiscal year 2008;
- (B) \$12,000,000 for fiscal year 2009; and
- (C) \$12,000,000 for fiscal year 2010.

(Added Pub. L. 107–71, title I, §101(a), Nov. 19, 2001, 115 Stat. 597; amended Pub. L. 107–296, title XVI, §1601(b), title XVII, §1707, Nov. 25, 2002, 116 Stat. 2312, 2318; Pub. L. 108–7, div. I, title III, §351(d), Feb. 20, 2003, 117 Stat. 420; Pub. L. 108–458, title IV, §4001(a), Dec. 17, 2004, 118 Stat. 3710; Pub. L. 110–53, title XII, §§1202, 1203(a), title XIII, §1302(a), title XV, §1503(a), Aug. 3, 2007, 121 Stat. 381, 383, 390, 425; Pub. L. 110–161, div. E, title V, §568(a), Dec. 26, 2007, 121 Stat. 2092; Pub. L. 111–83, title V, §561(c)(1), Oct. 28, 2009, 123 Stat. 2182.)

REFERENCES IN TEXT

The date of enactment of the Aviation and Transportation Security Act, referred to in subsec. (k), is the date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

The Inspector General Act of 1978, referred to in subsec. (o), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Aviation and Transportation Security Act, referred to in subsec. (r)(1), is Pub. L. 107–71, Nov. 19, 2001, 115 Stat. 597. For complete classification of this Act to the Code, see Short Title of 2001 Amendment note set out under section 40101 of this title and Tables.

The Implementing Recommendations of the 9/11 Commission Act of 2007, referred to in subsec. (s)(3)(B), is Pub. L. 110–53, Aug. 3, 2007, 121 Stat. 266. Section 1410 of the Act is classified to section 1139 of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title of 2007 Amendment note set out under section 101 of Title 6 and Tables.

The date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007 and the date of enactment of this subsection, referred to in subsecs. (s)(3)(F), (u)(6), (7)(C), and (v)(7)(D), is the date of enactment of Pub. L. 110–53, which was approved Aug. 3, 2007.

AMENDMENTS

2009—Subsec. (r)(4). Pub. L. 111–83 added par. (4).

2007—Subsecs. (o) to (s). Pub. L. 110–161 redesignated subsecs. (p) to (s) as (o) to (r), respectively, and struck out former subsec. (o). Text of former subsec. (o) read as follows: “The acquisition management system established by the Administrator of the Federal Aviation Administration under section 40110 shall apply to acquisitions of equipment, supplies, and materials by the Transportation Security Administration, or, subject to the requirements of such section, the Under Secretary may make such modifications to the acquisition management system with respect to such acquisitions of equipment, supplies, and materials as the Under Secretary considers appropriate, such as adopting aspects of other acquisition management systems of the Department of Transportation.”

Subsec. (t). Pub. L. 110–161 redesignated subsec. (t) as (s).

Subsec. (t)(1)(B). Pub. L. 110–53, §1202(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “transportation modal security plans.”

Subsec. (t)(3)(B). Pub. L. 110–53, §1202(b)(1), inserted “, based on risk assessments conducted or received by the Secretary of Homeland Security (including assess-

ments conducted under the Implementing Recommendations of the 9/11 Commission Act of 2007” after “risk-based priorities”.

Subsec. (t)(3)(D). Pub. L. 110-53, §1202(b)(2), substituted “local, and tribal” for “and local” and “cooperation and participation by private sector entities, including nonprofit employee labor organizations,” for “private sector cooperation and participation”.

Subsec. (t)(3)(E). Pub. L. 110-53, §1202(b)(3), substituted “prevention, response, and recovery” for “response and recovery” and inserted “and threatened and executed acts of terrorism outside the United States to the extent such acts affect United States transportation systems” before period at end.

Subsec. (t)(3)(F). Pub. L. 110-53, §1202(b)(4), inserted at end “Transportation security research and development projects shall be based, to the extent practicable, on such prioritization. Nothing in the preceding sentence shall be construed to require the termination of any research or development project initiated by the Secretary of Homeland Security or the Secretary of Transportation before the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.”

Subsec. (t)(3)(G) to (I). Pub. L. 110-53, §1202(b)(5), added subpars. (G) to (I).

Subsec. (t)(4)(C)(i). Pub. L. 110-53, §1202(c)(1)(A), inserted “, including the transportation modal security plans” before period at end.

Subsec. (t)(4)(C)(ii), (iii). Pub. L. 110-53, §1202(c)(1)(B), added cls. (ii) and (iii) and struck out former cl. (ii). Text of former cl. (ii) read as follows: “Each progress report under this subparagraph shall include, at a minimum, recommendations for improving and implementing the National Strategy for Transportation Security and the transportation modal security plans that the Secretary, in consultation with the Secretary of Transportation, considers appropriate.”

Subsec. (t)(4)(E). Pub. L. 110-53, §1202(c)(2), added subpar. (E) and struck out former subpar. (E). Text of former subpar. (E) read as follows: “In this subsection, the term ‘appropriate congressional committees’ means the Committee on Transportation and Infrastructure and the Select Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate.”

Subsec. (t)(5)(B)(iv), (v). Pub. L. 110-53, §1202(d), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (t)(6), (7). Pub. L. 110-53, §1202(e), added pars. (6) and (7).

Subsec. (u). Pub. L. 110-53, §1203(a), added subsec. (u).

Subsec. (v). Pub. L. 110-53, §1302(a), added subsec. (v).

Subsec. (w). Pub. L. 110-53, §1503(a), added subsec. (w). 2004—Subsec. (t). Pub. L. 108-458 added subsec. (t).

2003—Subsec. (q)(1). Pub. L. 108-7 inserted “or other Federal agency” after “Transportation Security Administration”.

2002—Subsec. (j)(2)(B). Pub. L. 107-296, §1707, inserted “for a period not to exceed 90 days” after “effective” and “ratified or” before “disapproved”.

Subsec. (s). Pub. L. 107-296, §1601(b), added subsec. (s).

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-161, div. E, title V, §568(b), Dec. 26, 2007, 121 Stat. 2092, provided that: “The amendment made by subsection (a) [amending this section] shall take effect 180 days after the date of enactment of this Act [Dec. 26, 2007].”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-458, title IV, §4082, Dec. 17, 2004, 118 Stat. 3732, provided that: “This title [enacting section 44925 of this title, amending this section, sections 44903, 44904, 44909, 44917, 44923, 46301 to 46303, and 48301 of this title, and sections 70102 and 70103 of Title 46, Shipping, and enacting provisions set out as notes under sections 44703, 44901, 44913, 44917, 44923, 44925, and 44935 of this

title, section 2751 of Title 22, Foreign Relations and Intercourse, and section 70101 of Title 46] shall take effect on the date of enactment of this Act [Dec. 17, 2004].”

EFFECTIVE DATE OF 2002 AMENDMENT

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

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

REGISTERED TRAVELER PROGRAMS AND BIOMETRICALLY-SECURE CARDS

Pub. L. 110-161, div. E, title V, §571, Dec. 26, 2007, 121 Stat. 2093, provided that: “Effective no later than ninety days after the date of enactment of this Act [Dec. 26, 2007], the Transportation Security Administration shall permit approved members of Registered Traveler programs to satisfy fully the required identity verification procedures at security screening checkpoints by presenting a biometrically-secure Registered Traveler card in lieu of the government-issued photo identification document required of non-participants: *Provided*, That if their identity is not confirmed biometrically, the standard identity and screening procedures will apply: *Provided further*, That if the Assistant Secretary (Transportation Security Administration) determines this is a threat to civil aviation, then the Assistant Secretary (Transportation Security Administration) shall notify the Committees on Appropriations of the Senate and House of Representatives five days in advance of such determination and require Registered Travelers to present government-issued photo identification documents in conjunction with a biometrically-secure Registered Traveler card.”

CONGRESSIONAL OVERSIGHT OF SECURITY ASSURANCE FOR PUBLIC AND PRIVATE STAKEHOLDERS

Pub. L. 110-53, title XII, §1203(b), Aug. 3, 2007, 121 Stat. 385, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary [of Homeland Security] shall provide a semiannual report to the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

“(A) the number of public and private stakeholders who were provided with each report;

“(B) a description of the measures the Secretary has taken, under section 114(u)(7) of title 49, United States Code, as added by this section, or otherwise, to ensure proper treatment and security for any classified information to be shared with the public and private stakeholders under the Plan; and

“(C) an explanation of the reason for the denial of transportation security information to any stakeholder who had previously received such information.

“(2) NO REPORT REQUIRED IF NO CHANGES IN STAKEHOLDERS.—The Secretary is not required to provide a semiannual report under paragraph (1) if no stakeholders have been added to or removed from the group of persons with whom transportation security information is shared under the plan since the end of the period covered by the last preceding semiannual report.”

SPECIALIZED TRAINING

Pub. L. 110-53, title XVI, § 1611, Aug. 3, 2007, 121 Stat. 485, provided that: “The Administrator of the Transportation Security Administration shall provide advanced training to transportation security officers for the development of specialized security skills, including behavior observation and analysis, explosives detection, and document examination, in order to enhance the effectiveness of layered transportation security measures.”

INAPPLICABILITY OF PERSONNEL LIMITATIONS AFTER FISCAL YEAR 2007

Pub. L. 110-53, title XVI, § 1612, Aug. 3, 2007, 121 Stat. 485, provided that:

“(a) IN GENERAL.—Notwithstanding any provision of law, any statutory limitation on the number of employees in the Transportation Security Administration, before or after its transfer to the Department of Homeland Security from the Department of Transportation, does not apply after fiscal year 2007.

“(b) AVIATION SECURITY.—Notwithstanding any provision of law imposing a limitation on the recruiting or hiring of personnel into the Transportation Security Administration to a maximum number of permanent positions, the Secretary of Homeland Security shall recruit and hire such personnel into the Administration as may be necessary—

“(1) to provide appropriate levels of aviation security; and

“(2) to accomplish that goal in such a manner that the average aviation security-related delay experienced by airline passengers is reduced to a level of less than 10 minutes.”

LEASE OF PROPERTY TO TRANSPORTATION SECURITY ADMINISTRATION EMPLOYEES

Pub. L. 109-90, title V, § 514, Oct. 18, 2005, 119 Stat. 2084, provided that: “Notwithstanding section 3302 of title 31, United States Code, for fiscal year 2006 and thereafter, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108-334, title V, § 516, Oct. 18, 2004, 118 Stat. 1318.

ACQUISITION MANAGEMENT SYSTEM OF THE TRANSPORTATION SECURITY ADMINISTRATION

Pub. L. 109-90, title V, § 515, Oct. 18, 2005, 119 Stat. 2084, provided that: “For fiscal year 2006 and thereafter, the acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108-334, title V, § 517, Oct. 18, 2004, 118 Stat. 1318.

REGISTERED TRAVELER PROGRAM FEE

Pub. L. 109-90, title V, § 540, Oct. 18, 2005, 119 Stat. 2088, provided that: “For fiscal year 2006 and thereafter,

notwithstanding section 553 of title 5, United States Code, the Secretary of Homeland Security shall impose a fee for any registered traveler program undertaken by the Department of Homeland Security by notice in the Federal Register, and may modify the fee from time to time by notice in the Federal Register: *Provided*, That such fees shall not exceed the aggregate costs associated with the program and shall be credited to the Transportation Security Administration registered traveler fee account, to be available until expended.”

ENHANCED SECURITY MEASURES

Pub. L. 107-71, title I, § 109, Nov. 19, 2001, 115 Stat. 613, as amended by Pub. L. 107-296, title XIV, § 1403(b), Nov. 25, 2002, 116 Stat. 2306, provided that:

“(a) IN GENERAL.—The Under Secretary of Transportation for Security may take the following actions:

“(1) Require effective 911 emergency call capability for telephones serving passenger aircraft and passenger trains.

“(2) Establish a uniform system of identification for all State and local law enforcement personnel for use in obtaining permission to carry weapons in aircraft cabins and in obtaining access to a secured area of an airport, if otherwise authorized to carry such weapons.

“(3) Establish requirements to implement trusted passenger programs and use available technologies to expedite the security screening of passengers who participate in such programs, thereby allowing security screening personnel to focus on those passengers who should be subject to more extensive screening.

“(4) In consultation with the Commissioner of the Food and Drug Administration, develop alternative security procedures under which a medical product to be transported on a flight of an air carrier would not be subject to an inspection that would irreversibly damage the product.

“(5) Provide for the use of technologies, including wireless and wire line data technologies, to enable the private and secure communication of threats to aid in the screening of passengers and other individuals on airport property who are identified on any State or Federal security-related data base for the purpose of having an integrated response coordination of various authorized airport security forces.

“(6) In consultation with the Administrator of the Federal Aviation Administration, consider whether to require all pilot licenses to incorporate a photograph of the license holder and appropriate biometric imprints.

“(7) Provide for the use of voice stress analysis, biometric, or other technologies to prevent a person who might pose a danger to air safety or security from boarding the aircraft of an air carrier or foreign air carrier in air transportation or intrastate air transportation.

“(8) Provide for the use of technology that will permit enhanced instant communications and information between airborne passenger aircraft and appropriate individuals or facilities on the ground.

“(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots.

“(b) REPORT.—Not later than 6 months after the date of enactment of this Act [Nov. 19, 2001], and annually thereafter until the Under Secretary has implemented or decided not to take each of the actions specified in subsection (a), the Under Secretary shall transmit to Congress a report on the progress of the Under Secretary in evaluating and taking such actions, including any legislative recommendations that the Under Secretary may have for enhancing transportation security.”

[For definitions of terms used in section 109 of Pub. L. 107-71, set out above, see section 133 of Pub. L. 107-71, set out as a note under section 40102 of this title.]

§ 115. Transportation Security Oversight Board

(a) IN GENERAL.—There is established in the Department of Homeland Security a board to be known as the “Transportation Security Oversight Board”.

(b) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Board shall be composed of 7 members as follows:

(A) The Secretary of Homeland Security, or the Secretary’s designee.

(B) The Secretary of Transportation, or the Secretary’s designee.

(C) The Attorney General, or the Attorney General’s designee.

(D) The Secretary of Defense, or the Secretary’s designee.

(E) The Secretary of the Treasury, or the Secretary’s designee.

(F) The Director of National Intelligence, or the Director’s designee.

(G) One member appointed by the President to represent the National Security Council.

(2) CHAIRPERSON.—The Chairperson of the Board shall be the Secretary of Homeland Security.

(c) DUTIES.—The Board shall—

(1) review and ratify or disapprove any regulation or security directive issued by the Under Secretary of Transportation for security¹ under section 114(l)(2) within 30 days after the date of issuance of such regulation or directive;

(2) facilitate the coordination of intelligence, security, and law enforcement activities affecting transportation;

(3) facilitate the sharing of intelligence, security, and law enforcement information affecting transportation among Federal agencies and with carriers and other transportation providers as appropriate;

(4) explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security;

(5) review plans for transportation security;

(6) make recommendations to the Under Secretary regarding matters reviewed under paragraph (5).

(d) QUARTERLY MEETINGS.—The Board shall meet at least quarterly.

(e) CONSIDERATION OF SECURITY INFORMATION.—A majority of the Board may vote to close a meeting of the Board to the public, except that meetings shall be closed to the public whenever classified, sensitive security information, or information protected in accordance with section 40119(b), will be discussed.

(Added Pub. L. 107-71, title I, §102(a), Nov. 19, 2001, 115 Stat. 604; amended Pub. L. 107-296, title IV, § 426(a), Nov. 25, 2002, 116 Stat. 2186; Pub. L. 111-259, title IV, §411, Oct. 7, 2010, 124 Stat. 2725.)

AMENDMENTS

2010—Subsec. (b)(1)(F). Pub. L. 111-259 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “The Director of the Central Intelligence Agency, or the Director’s designee.”

¹ So in original. Probably should be capitalized.

2002—Subsec. (a). Pub. L. 107-296, §426(a)(1), substituted “Department of Homeland Security” for “Department of Transportation”.

Subsec. (b)(1). Pub. L. 107-296, §426(a)(2), added subpar. (A), redesignated former subpars. (A) to (F) as (B) to (G), respectively, and struck out former subpar. (G) which read as follows: “One member appointed by the President to represent the Office of Homeland Security.”

Subsec. (b)(2). Pub. L. 107-296, §426(a)(3), substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

EFFECTIVE DATE OF 2002 AMENDMENT

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

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CHAPTER 3—GENERAL DUTIES AND POWERS

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

- Sec.
- 301. Leadership, consultation, and cooperation.
- 302. Policy standards for transportation.
- 303. Policy on lands, wildlife and waterfowl refuges, and historic sites.
- 303a. Development of water transportation.
- 304. Joint activities with the Secretary of Housing and Urban Development.
- 305. Transportation investment standards and criteria.
- 306. Prohibited discrimination.
- 307. Safety information and intervention in Interstate Commerce Commission proceedings.
- 308. Reports.
- 309. High-speed ground transportation.

SUBCHAPTER II—ADMINISTRATIVE

- 321. Definitions.
- 322. General powers.
- 323. Personnel.
- 324. Members of the armed forces.
- 325. Advisory committees.
- 326. Gifts.
- 327. Administrative working capital fund.
- 328. Transportation Systems Center working capital fund.
- 329. Transportation information.
- 330. Research contracts.
- 331. Service, supplies, and facilities at remote places.
- 332. Minority Resource Center.
- 333. Responsibility for rail transportation unification and coordination projects.

[334, 335. Repealed.]

- 336. Civil penalty procedures.
- 337. Budget request for the Director of Intelligence and Security.

SUBCHAPTER III—MISCELLANEOUS

- 351. Judicial review of actions in carrying out certain transferred duties and powers.
- 352. Authority to carry out certain transferred duties and powers.