

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 L. 97-449, Jan. 12, 1983, 96 Stat. 2443, repealed specified laws, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Jan. 12, 1983.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 L. 96-258, June 3, 1980, 94 Stat. 427, repealed certain sections and parts of sections of the Interstate Commerce Act and certain other provisions relating to applicability of such Act, except for rights and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 L. 95-473, Oct. 17, 1978, 92 Stat. 1466, repealed the sections and parts of sections of the Interstate Commerce Act and certain other provisions relating to the applicability of such Act, except as provided in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 L. 95-473, as they existed on Oct. 1, 1977, were not repealed to the extent those laws (A) vested functions in the Interstate Commerce Commission, or in the chairman or members of the Commission, related to transportation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functions and authority were transferred by sections 7155 and 7172(b) of Title 42, The Public Health and Welfare, was repealed and reenacted in sections 60501 and 60502 of this title by Pub.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.”

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 26 section 9502; title 42 section 9607.

SUBTITLE I—DEPARTMENT OF TRANSPORTATION

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CHAPTER 1—ORGANIZATION

Table with 2 columns: Sec. and Description
101. Purpose.
102. Department of Transportation.
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108. Coast Guard.
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110. Saint Lawrence Seaway Development Corporation.
111. Bureau of Transportation Statistics.
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AMENDMENTS

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

HISTORICAL AND REVISION NOTES

Table with 3 columns: 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 “conductive” 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 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.’”

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

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.”

§ 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 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.

(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 and the Deputy Secretary are absent or unable to serve, or when the offices of the Secretary and Deputy Secretary are vacant.

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

(Pub. L. 97-449, 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.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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

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).

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) The Federal Railroad Administration is an administration in the Department of Transportation. 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.

(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.

(c) The Administrator shall carry out—

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

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

(d) A duty or power specified by subsection (c)(1) 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.

(e) Subject to the provisions of the Federal Property and Administrative Services Act of

1949 (40 U.S.C. 471 et seq.), 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 of the Federal Railroad 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.

(Pub. L. 97-449, 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.)

**HISTORICAL AND REVISION NOTES
PUB. L. 97-449**

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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(F)(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). 49:1652(e)(4) (related to FRA). 49:1655(f)(3)(C) (related to FRA).	Oct. 15, 1966, Pub. L. 89-670, §6(F)(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)		

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 ref-

erence 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 Federal Property and Administrative Services Act of 1949, referred to in subsec. (e), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, Public Buildings, Property, and Works, and Tables.

AMENDMENTS

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.”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 322 of this title.

§ 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;

(2) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of this title; and

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

(d) 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.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2415; Pub. L. 103-272, §§4(j)(2), 5(m)(2), July 5, 1994, 108 Stat. 1365, 1375.)

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).	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.
	23:401 (note).	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.
	49:1652(e)(3) (related to FHWA) (less last sentence).	
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.

AMENDMENTS

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 322 of this title.

§ 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, Jan. 12, 1983, 96 Stat. 2415; Pub. L. 103-272, §5(m)(3), July 5, 1994, 108 Stat. 1375.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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 indi-

vidual to carry out efficiently the duties and powers of the office. The Administrator reports directly to the Secretary of Transportation. The term of office for any individual appointed as Administrator after the date of the enactment of this sentence 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) 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 Administration shall reimburse the appropriate military department from funds available for the expenses of the Administration.

(3) 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) The Secretary of Transportation shall carry out the duties and powers, and controls the personnel and activities, of the Administration. The Secretary may not submit decisions for the approval of, nor be bound by the decisions or recommendations of, a committee, board, or organization established by executive order.

(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), (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, 45303, 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 44931 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.—There is authorized to be appropriated to the Secretary of Transportation for operations of the Administration \$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.

(Pub. L. 97–449, 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.)

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).	
106(i)	49:1655(c)(1) (2d, last sentences). 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-

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
106(a)	49:1341(a) (1st sentence).	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.
106(b)	49:1652(e)(1) (related to FAA). 49:1341(a) (2d sentence), (b) (1st sentence less 1st–10th words). 49:1342(a) (1st sentence), (b) (1st sentence less 1st–11th words).	Oct. 15, 1966, Pub. L. 89–670, § 3(e) (related to FAA), 80 Stat. 932.

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 date of the enactment of this sentence, referred to in subsec. (b), is the date of enactment of Pub. L. 103-305, which was approved Aug. 23, 1994.

AMENDMENTS

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.”.

DEPENDENTS OF FEDERAL AVIATION ADMINISTRATION PERSONNEL

Provisions authorizing the expenditure of certain funds appropriated for the Federal Aviation Administration for (1) except as otherwise authorized by 20 U.S.C. 236-244 [see 20 U.S.C. 7701 et seq.], 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) transportation of said dependents between schools serving the area which 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, were contained in the following appropriation acts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Aug. 28, 1974, Pub. L. 93-391, title III, §311, 88 Stat. 780.
 Aug. 16, 1973, Pub. L. 93-98, title III, §313, 87 Stat. 340.
 Aug. 22, 1972, Pub. L. 92-398, title III, §313, 86 Stat. 591.
 Aug. 10, 1971, Pub. L. 92-74, title I, 85 Stat. 203.
 Dec. 26, 1969, Pub. L. 91-168, title I, 83 Stat. 455.
 Aug. 8, 1968, Pub. L. 90-464, title I, 82 Stat. 655.
 Oct. 23, 1967, Pub. L. 90-112, title II, 81 Stat. 312.
 June 29, 1966, Pub. L. 89-474, title I, 80 Stat. 223.
 June 30, 1965, Pub. L. 89-57, title I, 79 Stat. 197.
 Aug. 1, 1964, Pub. L. 88-392, title I, 78 Stat. 369.
 June 13, 1963, Pub. L. 88-39, title I, 77 Stat. 59.
 Aug. 6, 1962, Pub. L. 87-575, title I, 76 Stat. 311.
 Aug. 21, 1961, Pub. L. 87-159, title I, 75 Stat. 395.
 June 30, 1960, Pub. L. 86-561, title I, 74 Stat. 285.
 June 11, 1959, Pub. L. 86-39, title I, 73 Stat. 67.
 Mar. 28, 1958, Pub. L. 85-354, title I, 72 Stat. 63.
 May 27, 1957, Pub. L. 85-37, title I, 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 322, 44507 of this title.

§ 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, 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. Coast Guard

(a)(1) The Coast Guard is a part of the Department of Transportation. The Secretary of Transportation exercises all duties and powers related to the Coast Guard vested in the Secretary of the Treasury, and other officers and offices of the Department of Treasury, immediately before April 1, 1967.

(2) Notwithstanding paragraph (1) of this subsection, the Coast Guard, together with the duties and powers of the Coast Guard, shall operate as a service in the Navy as provided under section 3 of title 14.

(b) The Commandant is the Chief of the Coast Guard. In addition to carrying out the duties and powers specified by law, the Commandant shall carry out duties and powers prescribed by

the Secretary of Transportation. The Commandant reports directly to the Secretary. (Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2417; Pub. L. 103-272, § 4(j)(4), July 5, 1994, 108 Stat. 1365.)

HISTORICAL AND REVISION NOTES
PUB. L. 97-449

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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

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).

§ 109. Maritime Administration

(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.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2417; Pub. L. 103-272, § 5(m)(5), July 5, 1994, 108 Stat. 1375.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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.

AMENDMENTS

1994—Pub. L. 103-272 inserted “App.” after “(46” in subsecs. (a) and (b).

§ 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, Jan. 12, 1983, 96 Stat. 2418; Pub. L. 103-272, § 4(j)(5)(A), July 5, 1994, 108 Stat. 1366.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
110(a)	(no source).	
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 Department of Transportation a Bureau of Transportation Statistics.

(b) DIRECTOR.—

(1) APPOINTMENT.—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.

(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 compilation and analysis of transportation statistics.

(3) REPORTING.—The Director shall report directly to the Secretary.

(4) TERM.—The term of the Director shall be 4 years. The term of the first Director to be appointed shall begin on the 180th day after the date of the enactment of this section.

(c) RESPONSIBILITIES.—The Director of the Bureau shall be responsible for carrying out the following duties:

(1) COMPILING TRANSPORTATION STATISTICS.—Compiling, analyzing, and publishing a comprehensive set of transportation statistics to provide timely summaries and totals (including industrywide aggregates and multiyear averages) of transportation-related information. Such statistics shall be suitable for conducting cost-benefit studies (including comparisons among individual transportation modes and intermodal transport systems) and shall include information on—

- (A) productivity in various parts of the transportation sector;
- (B) traffic flows;
- (C) travel times;
- (D) vehicle weights;
- (E) variables influencing traveling behavior, including choice of transportation mode;

(F) travel costs of intracity commuting and intercity trips;

(G) availability of mass transit and the number of passengers served by each mass transit authority;

(H) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;

(I) accidents;

(J) collateral damage to the human and natural environment; and

(K) the condition of the transportation system.

(2) IMPLEMENTING LONG-TERM DATA COLLECTION PROGRAM.—Establishing and implementing, in cooperation with the modal administrators, the States, and other Federal officials a comprehensive, long-term program for the collection and analysis of data relating to the performance of the national transportation system. Such program shall—

(A) 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;

(B) ensure that data is collected under this subsection in a manner which will maximize the ability to compare data from different regions and for different time periods; and

(C) ensure that data collected under this subsection is controlled for accuracy and disseminated to the States and other interested parties.

(3) ISSUING GUIDELINES.—Issuing guidelines for the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (1) in order to ensure that such information is accurate, reliable, relevant, and in a form that permits systematic analysis.

(4) COORDINATING COLLECTION OF INFORMATION.—Coordinating the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (1) with related information-gathering activities conducted by other Federal departments and agencies and collecting appropriate data not elsewhere gathered.

(5) MAKING STATISTICS ACCESSIBLE.—Making the statistics published under this subsection readily accessible.

(6) IDENTIFYING INFORMATION NEEDS.—Identifying information that is needed under paragraph (1) but which is not being collected, reviewing such needs at least annually with the Advisory Council on Transportation Statistics, and making recommendations to appropriate Department of Transportation research officials concerning extramural and intramural research programs to provide such information.

(d) 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 of Transportation to collect and disseminate data independently.

(e) PROHIBITION ON CERTAIN DISCLOSURES.—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.

(f) TRANSPORTATION STATISTICS ANNUAL REPORT.—On or before January 1, 1994, and annually thereafter, the Director shall transmit to the President and Congress a Transportation Statistics Annual Report which shall include information on items referred to in subsection (c)(1), documentation of methods used to obtain and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

(g) PERFORMANCE OF FUNCTIONS OF DIRECTOR PENDING CONFIRMATION.—An individual who, on the date of the enactment of this section, 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.

(Added Pub. L. 102-240, title VI, §6006[(a)], Dec. 18, 1991, 105 Stat. 2172.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (b)(4) and (g), is the date of enactment of Pub. L. 102-240, which was approved Dec. 18, 1991.

The Privacy Act of 1974, referred to in subsec. (e), is Pub. L. 93-579, Dec. 31, 1974, 88 Stat. 1896, as amended, which enacted section 552a of Title 5, Government Organization and Employees, and enacted notes set out under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 552a of Title 5 and Tables.

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 App. U.S.C.] 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 Special Programs Administration

(a) ESTABLISHMENT.—There is established in the Department of Transportation a Research and Special Programs Administration.

(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) RESPONSIBILITIES OF ADMINISTRATOR.—The Administrator of the Administration shall be responsible for carrying out the following:

(1) HAZMAT TRANSPORTATION SAFETY.—Duties and powers vested in the Secretary of Transportation with respect to hazardous materials transportation safety, except as otherwise delegated by the Secretary.

(2) PIPELINE SAFETY.—Duties and powers vested in the Secretary with respect to pipeline safety.

(3) ACTIVITIES OF VOLPE NATIONAL TRANSPORTATION SYSTEMS CENTER.—Duties and powers vested in the Secretary with respect to activities of the Volpe National Transportation Systems Center.

(4) OTHER.—Such other duties and powers as the Secretary shall prescribe, including such multimodal and intermodal duties as are appropriate.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—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.

(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.)

AMENDMENTS

1994—Subsec. (e). Pub. L. 103-429 substituted “October 24, 1992” for “the date of the enactment of this section”.

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.”

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.
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- 305. Transportation investment standards and criteria.
- 306. Prohibited discrimination.
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- 309. High-speed ground transportation.

SUBCHAPTER II—ADMINISTRATIVE

- 321. Definitions.
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- 323. Personnel.
- 324. Members of the armed forces.
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- 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.
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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.
- 353. Toxicological testing of officers and employees.

Sec.

AMENDMENTS

1994—Pub. L. 103-272, § 4(j)(6)(B), (9)(B), (10)(B), July 5, 1994, 108 Stat. 1366-1368, added item 303a, struck out items 334 “Limit on aviation charges” and 335 “Authorization of appropriations”, and added item 337, subchapter III heading, and items 351 to 353.

1991—Pub. L. 102-240, title I, § 1036(c)(2), Dec. 18, 1991, 105 Stat. 1985, added item 309.

1989—Pub. L. 101-225, title III, § 305(2), Dec. 12, 1989, 103 Stat. 1925, added item 336.

1984—Pub. L. 98-216, § 2(1)(B), Feb. 14, 1984, 98 Stat. 5, substituted “Reports” for “Annual reports” in item 308.

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

§ 301. Leadership, consultation, and cooperation

The Secretary of Transportation shall—

(1) under the direction of the President, exercise leadership in transportation matters, including those matters affecting national defense and those matters involving national or regional emergencies;

(2) provide leadership in the development of transportation policies and programs, and make recommendations to the President and Congress for their consideration and implementation;

(3) coordinate Federal policy on intermodal transportation and initiate policies to promote efficient intermodal transportation in the United States;

(4) promote and undertake the development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation;

(5) consult and cooperate with the Secretary of Labor in compiling information regarding the status of labor-management contracts and other labor-management problems and in promoting industrial harmony and stable employment conditions in all modes of transportation;

(6) promote and undertake research and development related to transportation, including noise abatement, with particular attention to aircraft noise, and including basic highway vehicle science;

(7) consult with the heads of other departments, agencies, and instrumentalities of the United States Government on the transportation requirements of the Government, including encouraging them to establish and observe policies consistent with maintaining a coordinated transportation system in procuring transportation or in operating their own transport services; and

(8) consult and cooperate with State and local governments, carriers, labor, and other interested persons, including, when appropriate, holding informal public hearings.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2418; Pub. L. 102-240, title V, § 5002(a), title VI, § 6017, Dec. 18, 1991, 105 Stat. 2158, 2183.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
301	49:1653(a).	Oct. 15, 1966, Pub. L. 89-670, § 4(a), 80 Stat. 933.

In the introductory clause before “shall”, the words “in carrying out the purposes of this chapter . . . among his responsibilities” are omitted as surplus.

In clause (4), the word “compiling” is substituted for “gathering” for consistency.

AMENDMENTS

1991—Pars. (3) to (5). Pub. L. 102-240, § 5002(a), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively. Former par. (5) redesignated (6).

Par. (6). Pub. L. 102-240, §§ 5002(a), 6017, redesignated par. (5) as (6) and inserted “, and including basic highway vehicle science”. Former par. (6) redesignated (7).

Pars. (7), (8). Pub. L. 102-240, § 5002(a), redesignated pars. (6) and (7) as (7) and (8), respectively.

INTERMODAL TRANSPORTATION ADVISORY BOARD AND OFFICE OF INTERMODALISM

Section 5002(b), (c) of Pub. L. 102-240, which provided for establishment within the Office of the Secretary of Transportation of an Intermodal Transportation Advisory Board to make recommendations for carrying out responsibilities of the Secretary concerning the coordination of Federal policy on intermodal transportation, and for establishment within the Office of the Secretary of an Office of Intermodalism to develop intermodal transportation data, to coordinate Federal research on intermodal transportation, to provide technical assistance to States and metropolitan planning organizations, and to provide administrative and clerical support to the Intermodal Transportation Advisory Board, was repealed and reenacted as sections 5502 and 5503 of this title by Pub. L. 103-272, §§ 1(d), 7(b), July 5, 1994, 108 Stat. 849, 850, 1379.

MODEL INTERMODAL TRANSPORTATION PLANS

Section 5003 of Pub. L. 102-240, which directed Secretary of Transportation to make grants to States, representing a variety of geographic regions and transportation needs, patterns, and modes, for purpose of developing model State intermodal transportation plans consistent with policy of United States to encourage and promote development of national intermodal transportation system, was repealed and reenacted as section 5504 of this title by Pub. L. 103-272, §§ 1(d), 7(b), July 5, 1994, 108 Stat. 850, 1379.

NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION

Section 5005 of Pub. L. 102-240 provided for establishment of a National Commission on Intermodal Transportation, consisting of 11 appointed members, to make a complete investigation and study of intermodal transportation in the United States and internationally and to send a report to Congress not later than Sept. 30, 1993, containing recommendations for implementing the policy set out in section 302(e) of this title, with the Commission to terminate on the 180th day following transmittal of the report.

BORDER CROSSINGS

Section 6015 of Pub. L. 102-240 directed Secretary of Transportation to identify existing and emerging trade corridors and transportation subsystems that facilitate trade between United States, Canada, and Mexico and to recommend changes to improve and integrate corridor subsystems in order to achieve increased productivity and use of innovative marketing techniques, and directed Secretary to report to Congress not later than 18 months after Dec. 18, 1991, on transportation infrastructure needs and associated costs and to propose an agenda to develop systemwide integration of services for national benefits.

UNDERGROUND PIPELINES

Section 6020 of Pub. L. 102-240 directed Secretary of Transportation to conduct a study to evaluate feasibility, costs, and benefits of constructing and operating

pneumatic capsule pipelines for underground movement of commodities other than hazardous liquids and gas, and to submit, not later than 2 years after Dec. 18, 1991, a report to Congress on the results of the study.

LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY

Pub. L. 100-457, title III, §317(b), Sept. 30, 1988, 102 Stat. 2149, directed Department of Transportation to undertake a long-range, multi-modal national transportation strategic planning study, such study to forecast long-term needs and costs for developing and maintaining facilities and services to achieve a desired national transportation program for moving people and goods in the year 2015 and to include detailed analyses of transportation needs within six to nine metropolitan areas that have diverse population, development, and demographic patterns, including at least one interstate metropolitan area, with study to be submitted to Congress on or before Oct. 1, 1989. Similar provisions were contained in the following prior appropriation act: Pub. L. 100-202, §101(l) [title III, §317(b)], Dec. 22, 1987, 101 Stat. 1329-358, 1329-381.

COMMERCIAL EXPENDABLE LAUNCH VEHICLE ACTIVITIES

Designation of Department of Transportation as lead agency and duties of the Secretary for encouraging, facilitating, and developing commercial expendable launch vehicle operations by private enterprise, see Ex. Ord. No. 12465, Feb. 24, 1984, 49 F.R. 7211, set out under section 2465 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305 of this title.

§ 302. Policy standards for transportation

(a) The Secretary of Transportation is governed by the transportation policy of sections 10101 and 10101a of this title in addition to other laws.

(b) This subtitle and chapters 221 and 315 of this title do not authorize, without appropriate action by Congress, the adoption, revision, or implementation of a transportation policy or investment standards or criteria.

(c) The Secretary shall consider the needs—

- (1) for effectiveness and safety in transportation systems; and
- (2) of national defense.

(d)(1) It is the policy of the United States to promote the construction and commercialization of high-speed ground transportation systems by—

- (A) conducting economic and technological research;
- (B) demonstrating advancements in high-speed ground transportation technologies;
- (C) establishing a comprehensive policy for the development of such systems and the effective integration of the various high-speed ground transportation technologies; and
- (D) minimizing the long-term risks of investors.

(2) It is the policy of the United States to establish in the shortest time practicable a United States designed and constructed magnetic levitation transportation technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States.

(e) INTERMODAL TRANSPORTATION.—It is the policy of the United States Government to encourage and promote development of a national

intermodal transportation system in the United States to move people and goods in an energy-efficient manner, provide the foundation for improved productivity growth, strengthen the Nation's ability to compete in the global economy, and obtain the optimum yield from the Nation's transportation resources.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2419; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 102-240, title I, §1036(a), title V, §5001, Dec. 18, 1991, 105 Stat. 1978, 2158; Pub. L. 103-272, §5(m)(6), July 5, 1994, 108 Stat. 1375.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
302(a)	49:1653(b)(1).	Oct. 15, 1966, Pub. L. 89-670, §4(b), 80 Stat. 933.
302(b)	49:1653(b)(2).	
302(c)	49:1653(b)(3).	

In subsection (a), the words "In carrying out his duties and responsibilities under this chapter" before "Secretary of Transportation" are omitted as surplus. The words "the transportation policy of sections 10101 and 10101a of this title in addition to other laws" are substituted for "all applicable statutes including the policy standards set forth in the Federal Aviation Act of 1958, as amended [49 U.S.C. 1301 et seq.]; the national transportation policy of the Interstate Commerce Act, as amended; title 23, relating to Federal-aid highways; and title 14, titles 52 and 53 of the Revised Statutes, the Act of April 25, 1940, as amended, and the Act of September 2, 1958, as amended, relating to the United States Coast Guard" because each of the omitted laws is now applicable to the Secretary of Transportation and the Department of Transportation as the result of the restatement of those laws, and the Secretary is therefore bound to follow those laws by their own terms.

In subsection (c), the words "In exercising the functions, powers, and duties conferred on and transferred to the Secretary by this chapter" before "Secretary" are omitted as surplus. The word "consider" is substituted for "give full consideration to" to eliminate surplus words. The words "for operational continuity of the functions transferred" after "the needs" are omitted as executed.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-272 substituted "This subtitle and chapters 221 and 315 of this title" for "Subtitle I and chapter 31 of subtitle II of this title and the Department of Transportation Act (49 App. U.S.C. 1651 et seq.)".

1991—Subsec. (d). Pub. L. 102-240, §1036(a), added subsec. (d).

Subsec. (e). Pub. L. 102-240, §5001, added subsec. (e).

1984—Subsec. (b). Pub. L. 98-216 substituted "49 App. U.S.C." for "49 U.S.C.".

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 1036(a) of Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of Title 23, Highways.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305 of this title.

§ 303. Policy on lands, wildlife and waterfowl refuges, and historic sites

(a) It is the policy of the United States Government that special effort should be made to

preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

(b) The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

(c) The Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204 of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

(1) there is no prudent and feasible alternative to using that land; and

(2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2419; Pub. L. 100-17, title I, §133(d), Apr. 2, 1987, 101 Stat. 173.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
303(a)	49:1651(b)(2). 49:1653(f) (1st sentence).	Oct. 15, 1966, Pub. L. 89-670, §2(b)(2), 80 Stat. 931. Oct. 15, 1966, Pub. L. 89-670, §4(f), 80 Stat. 934; restated Aug. 23, 1968, Pub. L. 90-495, §18(b), 82 Stat. 824.
303(b)	49:1653(f) (2d sentence).	
303(c)	49:1653(f) (less 1st, 2d sentences).	

In subsection (a), the words “hereby declared to be” before “the policy” are omitted as surplus. The words “of the United States Government” are substituted for “national” for clarity and consistency.

In subsection (b), the words “crossed by transportation activities or facilities” are substituted for “traversed” for clarity.

In subsection (c), before clause (1), the words “After August 23, 1968” after “Secretary” are omitted as executed. The word “transportation” is inserted before “program” for clarity. In clause (2), the words “or project” are added for consistency.

AMENDMENTS

1987—Subsec. (c). Pub. L. 100-17 inserted “(other than any project for a park road or parkway under section 204 of title 23)” after “program or project”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305 of this title; title 23 sections 108, 117; title 45 sections 1116, 1212.

§ 303a. Development of water transportation

(a) POLICY.—It is the policy of Congress—

(1) to promote, encourage, and develop water transportation, service, and facilities for the commerce of the United States; and

(2) to foster and preserve rail and water transportation.

(b) DEFINITION.—In this section, “inland waterway” includes the Great Lakes.

(c) REQUIREMENTS.—The Secretary of Transportation shall—

(1) investigate the types of vessels suitable for different classes of inland waterways to promote, encourage, and develop inland waterway transportation facilities for the commerce of the United States;

(2) investigate water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, and equipment, and investigate railroad spurs and switches connecting with those water terminals, to develop the types most appropriate for different locations and for transferring passengers or property between water carriers and rail carriers more expeditiously and economically;

(3) consult with communities, cities, and towns about the location of water terminals, and cooperate with them in preparing plans for terminal facilities;

(4) investigate the existing status of water transportation on the different inland waterways of the United States to learn the extent to which—

(A) the waterways are being used to their capacity and are meeting the demands of traffic; and

(B) water carriers using those waterways are interchanging traffic with rail carriers;

(5) investigate other matters that may promote and encourage inland water transportation; and

(6) compile, publish, and distribute information about transportation on inland waterways that the Secretary considers useful to the commercial interests of the United States.

(Pub. L. 103-272, §4(j)(6)(A), July 5, 1994, 108 Stat. 1366.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
303a	49 App.:142.	Feb. 28, 1920, ch. 91, §500, 41 Stat. 499; Aug. 6, 1981, Pub. L. 97-31, §12(9), 95 Stat. 154.

Section 4(j)(6)(A) amends 49:ch. 3 by restating 49 App.:142 as section 303a because the provision more appropriately belongs in chapter 3.

In subsection (a)(2), the words “in full vigor both” are omitted as surplus.

In subsection (b), the words “be construed to” are omitted as surplus.

In subsection (c)(1), the word “appropriate” is omitted as surplus. The word “vessels” is substituted for “boats” for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), the words “the subject of”, “apparatus”, “appliances in connection therewith”, and “or interchange” are omitted as surplus.

In subsection (c)(3), the words “appropriate” and “suitable” are omitted as surplus.

In subsection (c)(6), the words “province and”, “from time to time”, and “useful statistics, data, and” are omitted as surplus.

§ 304. Joint activities with the Secretary of Housing and Urban Development

(a) The Secretary of Transportation and the Secretary of Housing and Urban Development shall—

- (1) consult and exchange information about their respective transportation policies and activities;
- (2) carry out joint planning, research, and other activities;
- (3) coordinate assistance for local transportation projects; and
- (4) jointly study methods by which policies and programs of the United States Government can ensure that urban transportation systems most effectively serve both transportation needs of the United States and the comprehensively planned development of urban areas.

(b) The Secretaries shall report on April 1 of each year to the President, for submission to Congress, on their studies and other activities under this section, including legislative recommendations they consider desirable.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2419.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
304(a)	49:1653(g) (less 3d sentence).	Oct. 15, 1966, Pub. L. 89-670, § 4(g), 80 Stat. 934.
304(b)	49:1653(g) (3d sentence).	

In subsection (a), the text of 49:1653(g) (last sentence) is omitted as executed.

In subsection (a)(4), the word “ensure” is substituted for “assure” as being more precise. The words “of the United States Government” are substituted for “Federal”, and the words “United States” are substituted for “national”, for clarity and consistency.

In subsection (b), the words “The Secretaries shall report on April 1 of each year” are substituted for “They shall, within one year after the effective date of the Act, and annually thereafter, report” to omit executed words and to specify the date of April 1 because the President prescribed April 1, 1967, as the effective date of the Department of Transportation Act (Pub. L. 89-670, 80 Stat. 931) by Executive Order No. 11340, March 30, 1967 (32 F.R. 5443). The word “consider” is substituted for “determine” for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305 of this title.

§ 305. Transportation investment standards and criteria

(a) Subject to sections 301-304 of this title, the Secretary of Transportation shall develop standards and criteria to formulate and economically evaluate all proposals for investing amounts of the United States Government in transportation facilities and equipment. Based on experience, the Secretary shall revise the standards and criteria. When approved by Congress, the Secretary shall prescribe standards and criteria developed or revised under this subsection. This subsection does not apply to—

- (1) the acquisition of transportation facilities or equipment by a department, agency, or instrumentality of the Government to provide transportation for its use;
- (2) an inter-oceanic canal located outside the 48 contiguous States;
- (3) defense features included at the direction of the Department of Defense in designing and constructing civil air, sea, or land transportation;

- (4) foreign assistance programs;
- (5) water resources projects; or
- (6) grant-in-aid programs authorized by law.

(b) A department, agency, or instrumentality of the Government preparing a survey, plan, or report that includes a proposal about which the Secretary has prescribed standards and criteria under subsection (a) of this section shall—

(1) prepare the survey, plan, or report under those standards and criteria and on the basis of information provided by the Secretary on the—

(A) projected growth of transportation needs and traffic in the affected area;

(B) the relative efficiency of various modes of transportation;

(C) the available transportation services in the area; and

(D) the general effect of the proposed investment on existing modes of transportation and on the regional and national economy;

(2) coordinate the survey, plan, or report—

(A) with the Secretary and include the views and comments of the Secretary; and

(B) as appropriate, with other departments, agencies, and instrumentalities of the Government, States, and local governments, and include their views and comments; and

(3) send the survey, plan, or report to the President for disposition under law and procedure established by the President.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2420.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
305(a)	49:1656(a) (less next-to-last par.).	Oct. 15, 1966, Pub. L. 89-670, § 7 (less (a) next-to-last par.), 80 Stat. 941.
305(b)	49:1656 (less (a)).	

In subsection (a), before clause (1), the words “consistent with national transportation policies” after “develop standards and criteria” are omitted as unnecessary because of section 302 of the revised title. The words “Based on experience” are substituted for “in the light of experience”, and the words “shall prescribe” are substituted for “be promulgated by the”, to conform to other sections of the revised title. The words “from time to time” after “shall revise” are omitted as unnecessary. The words “This subsection does not apply to” are substituted for “except such proposals as are concerned with” for clarity. In clause (1), the words “a department, agency, or instrumentality of the Government” are substituted for “Federal agencies” for clarity and consistency. Similar conforming changes are made throughout the section. The word “services” after “provide transportation” is omitted as unnecessary. In clause (2), the words “48 contiguous States” are substituted for “contiguous United States” for clarity.

The text of 49:1656(a) (last par.) that provided that the Secretary of Transportation was a member of the Water Resources Council on matters pertaining to navigation features of water resource projects is omitted as superseded because 42:1962(a) gave the Secretary membership on the Council without limitation.

In subsection (b)(2), the words “unit of” before “governments” are omitted as surplus. In clause (3), the word “thereafter” after “send” is omitted as surplus.

§ 306. Prohibited discrimination

(a) In this section, “financial assistance” includes obligation guarantees.

(b) A person in the United States may not be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a project, program, or activity because of race, color, national origin, or sex when any part of the project, program, or activity is financed through financial assistance under section 332 or 333 or chapter 221 or 249 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), or title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.).

(c) When the Secretary of Transportation decides that a person receiving financial assistance under a law referred to in subsection (b) of this section has not complied with that subsection, a Federal civil rights law, or an order or regulation issued under a Federal civil rights law, the Secretary shall notify the person of the decision and require the person to take necessary action to ensure compliance with that subsection.

(d) If a person does not comply with subsection (b) of this section within a reasonable time after receiving a notice under subsection (c) of this section, the Secretary shall take at least one of the following actions:

- (1) direct that no more Federal financial assistance be provided the person.
- (2) refer the matter to the Attorney General with a recommendation that a civil action be brought against the person.
- (3) carry out the duties and powers provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).
- (4) take other action provided by law.

(e) When a matter is referred to the Attorney General under subsection (d)(2) of this section, or when the Attorney General has reason to believe that a person is engaged in a pattern or practice violating this section, the Attorney General may begin a civil action in a district court of the United States for appropriate relief. (Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2421; Pub. L. 98-216, §2(3), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103-272, §5(m)(7), July 5, 1994, 108 Stat. 1376.)

HISTORICAL AND REVISION NOTES PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
306(a)	45:803(f).	Feb. 5, 1976, Pub. L. 94-210, §905, 90 Stat. 148.
306(b)	45:803(a).	
306(c), (d) ...	45:803(b).	
306(e)	45:803(c)-(e).	

In subsection (b), the enumerated laws are substituted for “through financial assistance under this Act”, meaning the Rail Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 31) and laws amended by that Act. The laws cited in the subsection are substituted for “through financial assistance under this Act” for clarity. The enumerated laws include provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 that amend other laws as well as provisions that are not amendments to other laws. A reference to the Urban Mass Transportation Act of 1964 (Pub. L. 88-365, 78 Stat. 302) is omitted because this section related to that Act is superseded by 49:1615.

In subsection (c), the word “decides” is substituted for “determines” for consistency. The word “ensure” is substituted for “assure” as being more precise.

In subsection (d), the words “at least one of the following actions” are substituted for “and/or” for clarity and consistency.

In subsection (e), the text of 45:803(d) is omitted as unnecessary because section 322 of the revised title gives the Secretary of Transportation general authority to prescribe regulations and other provisions of the revised title give the Secretary general authority to carry out his duties and powers. The text of 45:803(e) is omitted as unnecessary.

PUB. L. 98-216

This is necessary to correct a cross-reference in section 306(b) and to reflect the transfer of the non-positive law provisions of title 49 to title 49 appendix.

REFERENCES IN TEXT

The Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsec. (b), is Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31, as amended. Title V of the Act is classified generally to subchapter II (§821 et seq.) of chapter 17 of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 45 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d)(3), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-272 substituted “section 332 or 333 or chapter 221 or 249 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), or title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.)” for “section 332 or 333 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), title V or VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq., 851 et seq.), or section 4(i) or 5 of the Department of Transportation Act (49 U.S.C. 1653(i), 1654)”.

1984—Subsec. (b). Pub. L. 98-216 substituted “section 332 or 333 of this title” for “section 332 of this title” and “49 App. U.S.C.” for “49 U.S.C.”.

§ 307. Safety information and intervention in Interstate Commerce Commission proceedings

(a) The Secretary of Transportation shall inspect promptly the safety compliance record in the Department of Transportation of each person applying to the Interstate Commerce Commission for authority to provide transportation or freight forwarder service. The Secretary shall report the findings of the inspection to the Commission.

(b) When the Secretary is not satisfied with the safety record of a person applying for permanent authority to provide transportation or freight forwarder service, or for approval of a proposed transfer of permanent authority, the Secretary shall intervene and present evidence of the fitness of the person to the Commission in its proceedings.

(c) When requested by the Commission, the Secretary shall—

- (1) provide the Commission with a complete report on the safety compliance of a carrier providing transportation or freight forwarder service subject to its jurisdiction;

(2) provide promptly a statement of the safety record of a person applying to the Commission for temporary authority to provide transportation;

(3) intervene and present evidence in a proceeding in which a finding of fitness is required; and

(4) make additional safety compliance surveys and inspections the Commission decides are desirable to allow it to act on an application or to make a finding on the fitness of a carrier.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2421.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
307(a)	49:1653(e)(1).	Oct. 15, 1966, Pub. L. 89-670, § 4(e), 80 Stat. 934.
307(b)	49:1653(e)(2).	
307(c)	49:1653(e)(3), (4).	

In the section, the words “be the duty of” before “Secretary shall” are omitted as surplus.

In subsection (a), the word “inspect” is substituted for “investigate” as being more appropriate. The words “person applying to the Interstate Commerce Commission for authority to provide transportation or freight forwarder service” are substituted for “applicant seeking operating authority from the Interstate Commerce Commission” as being more precise and to conform to subtitle IV of the revised title. The words “of the inspection” are inserted for clarity.

In subsection (b), the words “person applying for permanent authority to provide transportation or freight forwarder service” are substituted for “applicant for permanent operating authority” as being more precise and to conform to subtitle IV of the revised title. The words “proposed transfer of permanent authority” are substituted for “proposed transaction involving transfer of operating authority” to eliminate surplus words and for clarity because the transfer only involves permanent authority.

In subsection (c)(1), the words “providing transportation or freight forwarder service subject to its jurisdiction” are inserted for clarity.

Subsection (c)(2) is substituted for 49:1653(e)(3) for clarity and to conform to subtitle IV of the revised title. The words “freight forwarder service” are not used because the law does not provide for temporary authority for freight forwarders.

In subsection (c)(3) and (4), the word “finding” is substituted for “determination” to conform to subtitle IV of the revised title.

In subsection (c)(3), the words “necessary or” before “desirable” are omitted as surplus.

§ 308. Reports

(a) As soon as practicable after the end of each fiscal year, the Secretary of Transportation shall report to the President, for submission to Congress, on the activities of the Department of Transportation during the prior fiscal year.

(b) The Secretary shall submit to the President and Congress each year a report on the aviation activities of the Department. The report shall include—

(1) collected information the Secretary considers valuable in deciding questions about—

(A) the development and regulation of civil aeronautics;

(B) the use of airspace of the United States; and

(C) the improvement of the air navigation and traffic control system; and

(2) recommendations for additional legislation and other action the Secretary considers necessary.

(c) The Secretary shall submit to Congress each year a report on the conditions of the public ports of the United States, including the—

(1) economic and technological development of the ports;

(2) extent to which the ports contribute to the national welfare and security; and

(3) factors that may impede the continued development of the ports.

(d) By the 90th day after the end of each fiscal year, the Secretary shall submit to Congress a report listing the specific assistance provided by the United States Government to the railroad industry during that fiscal year. The report shall include—

(1) the reasons for each Government loan or grant and explain the way in which the loan or grant contributed to the overall goal of providing a safe and efficient transportation system;

(2) information on the financial condition of each railroad having a loan guaranteed under the Emergency Rail Services Act of 1970 (45 U.S.C. 661 et seq.) throughout the duration of the loan; and

(3) information on the past and anticipated financial condition and operations during the fiscal year of the Railroad Rehabilitation and Improvement Fund established under section 502(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(a)) and of the Obligation Guarantee Fund established under section 511(b) of that Act (45 U.S.C. 831(b)).

(e)(1) The Secretary shall submit a report to Congress in January of each even-numbered year of estimates by the Secretary on the current performance and condition of public mass transportation systems with recommendations for necessary administrative or legislative changes.

(2) In reporting to Congress under this subsection, the Secretary shall prepare a complete assessment of public transportation facilities in the United States. The Secretary also shall assess future needs for those facilities and estimate future capital requirements and operation and maintenance requirements for one-year, 5-year, and 10-year periods at specified levels of service.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2422; Pub. L. 98-216, § 2(1)(A), Feb. 14, 1984, 98 Stat. 4.)

HISTORICAL AND REVISION NOTES

PUB. L. 97-449

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
308(a)	45:792. 49:1658.	Jan. 2, 1974, Pub. L. 93-236, § 602, 87 Stat. 1022. Oct. 15, 1966, Pub. L. 89-670, § 12, 80 Stat. 949; Feb. 5, 1976, Pub. L. 94-210, § 906(1), 90 Stat. 149. Aug. 23, 1958, Pub. L. 85-726, § 313(e), 72 Stat. 753.
308(b)	49:1354(e).	Oct. 3, 1980, Pub. L. 96-371, § 2, 94 Stat. 1362; Aug. 6, 1981, Pub. L. 97-31, § 12(8), 95 Stat. 154.
308(c)	15:1519a.	

In subsection (a), the words “As part of his annual report each year” in 45:792 are omitted as unnecessary because of the restatement of the source provisions.

In subsection (b), before clause (1), the words “aviation activities of the Department” are substituted for “work performed under this chapter” because of the restatement. The words “The report shall include” are substituted for “Such report shall contain” for consistency. In clause (1), the words “and data” after “information” are omitted as surplus. The words “airspace of the United States” are substituted for “National airspace” for clarity and consistency. In clause (2), the words “the Secretary considers necessary” are substituted for “as may be considered” for clarity.

PUB. L. 98-216

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
308(d)	49 App.:1654a.	Oct. 14, 1980, Pub. L. 96-448, § 409, 94 Stat. 1948; Dec. 21, 1982, Pub. L. 97-375, § 210(a), 96 Stat. 1825.
308(e)	49 App.:1601c.	Jan. 6, 1983, Pub. L. 97-424, § 310, 96 Stat. 2151.

This [deletion of the last sentence of subsection (a)] is necessary because section 111(b) of the Congressional Reports Elimination Act of 1982 (Pub. L. 97-375, 96 Stat. 1821) repealed section 602 of the Regional Rail Reorganization Act of 1973 (Pub. L. 93-236, 87 Stat. 1022), which was restated as section 308(a) (last sentence) of title 49 by section 1 of the Act of January 12, 1983 (Pub. L. 97-449, 96 Stat. 2413).

In subsection (e)(1), the words “January of each even-numbered year” are substituted for “January of 1984 and in January of every second year thereafter” to eliminate unnecessary words.

REFERENCES IN TEXT

The Emergency Rail Services Act of 1970, referred to in subsec. (d)(2), is Pub. L. 91-663, Jan. 8, 1971, 84 Stat. 1975, as amended, which is classified generally to chapter 15 (§ 661 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 45 and Tables.

AMENDMENTS

1984—Pub. L. 98-216, § 2(1)(A)(i), substituted “Reports” for “Annual reports” in section catchline.

Subsec. (a). Pub. L. 98-216, § 2(1)(A)(ii), struck out requirement that the report include a complete statement on the effectiveness of the United States Railway Association and the Consolidated Rail Corporation in carrying out the purposes of the Regional Rail Reorganization Act of 1973.

Subsecs. (d), (e). Pub. L. 98-216, § 2(1)(A)(iii), added subsecs. (d) and (e).

ANNUAL REPORT ON SAFETY ENFORCEMENT ACTIVITIES OF FEDERAL AVIATION ADMINISTRATION

Pub. L. 100-202, § 101(l) [title III, § 317(a)], Dec. 22, 1987, 101 Stat. 1329-358, 1329-380, and Pub. L. 100-457, title III, § 317(a), Sept. 30, 1988, 102 Stat. 2148, which required Secretary of Transportation to transmit to Congress an annual report on Federal Aviation Administration’s prior safety enforcement activities including staffing level comparisons, inspector experience and training schedules, criteria used to set annual work programs, annual inspection comparisons, statement of adequacy of internal management controls, status of regulatory changes, list of specific operational measures of effectiveness, schedule showing number of civil penalty cases closed, schedule showing number of enforcement actions taken, and schedules showing aviation industry’s safety record, were repealed and reenacted as section 44723 of this title by Pub. L. 103-272, §§ 1(e), 7(b), July 5, 1994, 108 Stat. 1202, 1379.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title; title 33 section 535h.

§ 309. High-speed ground transportation

(a) The Secretary of Transportation, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, the Assistant Secretary of the Army for Public Works, and the heads of other interested agencies, shall lead and coordinate Federal efforts in the research and development of high-speed ground transportation technologies in order to foster the implementation of magnetic levitation and high-speed steel wheel on rail transportation systems as alternatives to existing transportation systems.

(b)(1) The Secretary may award contracts and grants for demonstrations to determine the contributions that high-speed ground transportation could make to more efficient, safe, and economical intercity transportation systems. Such demonstrations shall be designed to measure and evaluate such factors as the public response to new equipment, higher speeds, variations in fares, improved comfort and convenience, and more frequent service. In connection with grants and contracts for demonstrations under this section, the Secretary shall provide for financial participation by private industry to the maximum extent practicable.

(2)(A) In connection with the authority provided under paragraph (1), there is established a national high-speed ground transportation technology demonstration program, which shall be separate from the national magnetic levitation prototype development program established under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991 and shall be managed by the Secretary of Transportation.

(B)(i) Any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem, or system in any revenue service high-speed ground transportation project or system under construction or in operation at the time the application is made.

(ii) Grants or contracts shall be awarded only to eligible applicants showing demonstrable benefit to the research and development, design, construction, or ultimate operation of any maglev technology or high-speed steel wheel on rail technology. Criteria to be considered in evaluating the suitability of a proposal under this paragraph shall include—

(I) feasibility of guideway or track design and construction;

(II) safety and reliability;

(III) impact on the environment in comparison to other high-speed ground transportation technologies;

(IV) minimization of land use;

(V) effect on human factors related to high-speed ground transportation;

(VI) energy and power consumption and cost;

(VII) integration of high-speed ground transportation systems with other modes of transportation;

(VIII) actual and projected ridership; and

(IX) design of signaling, communications, and control systems.

(C) For the purposes of this paragraph, the term “eligible applicant” means any United

States private business, State government, local government, organization of State or local government, or any combination thereof. The term does not include any business owned in whole or in part by the Federal Government.

(D) The amount and distribution of grants or contracts made under this paragraph shall be determined by the Secretary. No grant or contract may be awarded under this paragraph to demonstrate a technology to be incorporated into a project or system located in a State that prohibits under State law the expenditure of non-Federal public funds or revenues on the construction or operation of such project or system.

(E) Recipients of grants or contracts made pursuant to this paragraph shall agree to submit a report to the Secretary detailing the results and benefits of the technology demonstration proposed, as required by the Secretary.

(c)(1) In carrying out the responsibilities of the Secretary under this section, the Secretary is authorized to enter into 1 or more cooperative research and development agreements (as defined by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and 1 or more funding agreements (as defined by section 201(b) of title 35, United States Code), with United States companies for the purpose of—

(A) conducting research to overcome technical and other barriers to the development and construction of practicable high-speed ground transportation systems and to help advance the basic generic technologies needed for these systems; and

(B) transferring the research and basic generic technologies described in subparagraph (A) to industry in order to help create a viable commercial high-speed ground transportation industry within the United States.

(2) In a cooperative agreement or funding agreement under paragraph (1), the Secretary may agree to provide not more than 80 percent of the cost of any project under the agreement. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

(3) The research, development, or utilization of any technology pursuant to a cooperative agreement under paragraph (1), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(4) The research, development, or utilization of any technology pursuant to a funding agreement under paragraph (1), including the determination of all licensing and ownership rights, shall be subject to the provisions of chapter 18 of title 35, United States Code.

(5) At the conclusion of fiscal year 1993 and again at the conclusion of fiscal year 1996, the Secretary shall submit reports to Congress regarding research and technology transfer activities conducted pursuant to the authorization contained in paragraph (1).

(d)(1) Not later than June 1, 1995, the Secretary shall complete and submit to Congress a study of the commercial feasibility of constructing 1 or more high-speed ground transportation

systems in the United States. Such study shall consist of—

(A) an economic and financial analysis;

(B) a technical assessment; and

(C) recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems.

(2) The economic and financial analysis referred to in paragraph (1)(A) shall include—

(A) an examination of the potential market for a nationwide high-speed ground transportation network, including a national magnetic levitation ground transportation system;

(B) an examination of the potential markets for short-haul high-speed ground transportation systems and for intercity and long-haul high-speed ground transportation systems, including an assessment of—

(i) the current transportation practices and trends in each market; and

(ii) the extent to which high-speed ground transportation systems would relieve the current or anticipated congestion on other modes of transportation;

(C) projections of the costs of designing, constructing, and operating high-speed ground transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for private and public financing;

(D) the availability of rights-of-way to serve each market, including the extent to which average and maximum speeds would be limited by the curvature of existing rights-of-way and the prospect of increasing speeds through the acquisition of additional rights-of-way without significant relocation of residential, commercial, or industrial facilities;

(E) a comparison of the projected costs of the various competing high-speed ground transportation technologies;

(F) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual high-speed ground transportation systems and the completion of a nationwide high-speed ground transportation network;

(G) an examination of the effect of the construction and operation of high-speed ground transportation systems on regional employment and economic growth;

(H) recommendations for the roles appropriate for local, regional, and State governments to facilitate construction of high-speed ground transportation systems, including the roles of regional economic development authorities;

(I) an assessment of the potential for a high-speed ground transportation technology export market;

(J) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed ground transportation;

(K) an examination of the role of the National Railroad Passenger Corporation in the development and operation of high-speed ground transportation systems; and

(L) any other economic or financial analyses the Secretary considers important for carrying out this section.

(3) The technical assessment referred to in paragraph (1)(B) shall include—

(A) an examination of the various technologies developed for use in the transportation of passengers by high-speed ground transportation, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system;

(B) an examination of the potential role of a United States designed maglev system, developed as a prototype under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, in relation to the implementation of other high-speed ground transportation technologies and the national transportation system;

(C) an examination of the work being done to establish safety standards for high-speed ground transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988;

(D) an examination of the need to establish appropriate technological, quality, and environmental standards for high-speed ground transportation systems;

(E) an examination of the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed ground transportation systems, including the potential for the use of existing rights-of-way;

(F) an examination of the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed ground transportation systems; and

(G) any other technical assessments the Secretary considers important for carrying out this section.

(e)(1) Within 12 months after the submission of the study required by subsection (d), the Secretary shall establish the national high-speed ground transportation policy (hereinafter in this section referred to as the "Policy").

(2) The Policy shall include—

(A) provisions to promote the design, construction, and operation of high-speed ground transportation systems in the United States;

(B) a determination whether the various competing high-speed ground transportation technologies can be effectively integrated into a national network and, if not, whether 1 or more such technologies should receive preferential encouragement from the Federal Government to enable the development of such a national network;

(C) a strategy for prioritizing the markets and corridors in which the construction of high-speed ground transportation systems should be encouraged; and

(D) provisions designed to promote American competitiveness in the market for high-speed ground transportation technologies.

(3) The Secretary shall solicit comments from the public in the development of the Policy and may consult with other Federal agencies as appropriate in drafting the Policy.

(Added Pub. L. 102-240, title I, §1036(c)(1), Dec. 18, 1991, 105 Stat. 1982.)

REFERENCES IN TEXT

Section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsecs. (b)(2)(A) and (d)(3)(B), is section 1036(b) of Pub. L. 102-240, which is set out below.

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (c)(3), is Pub. L. 96-480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

Section 7 of the Rail Safety Improvement Act of 1988, referred to in subsec. (d)(3)(C), is section 7 of Pub. L. 100-342, which amended section 431 of Title 45, Railroads.

EFFECTIVE DATE

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as an Effective Date of 1991 Amendment note under section 104 of Title 23, Highways.

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM

Section 1036(b) of Pub. L. 102-240 provided that:

“(1) MANAGEMENT OF PROGRAM.—There is hereby established a national magnetic levitation prototype development program to be managed by a program director appointed jointly by the Secretary and the Assistant Secretary of the Army for Civil Works (hereinafter in this subsection referred to as the ‘Assistant Secretary’). To carry out such program, the Secretary and the Assistant Secretary shall establish a national maglev joint project office (hereinafter in this subsection referred to as the ‘Maglev Project Office’), which shall be headed by the program director, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions. In carrying out such program, the program director shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency.

“(2) PHASE ONE CONTRACTS.—

“(A) REQUEST FOR PROPOSALS.—Not later than 12 months after the date of the enactment of this Act [Dec. 18, 1991], the Maglev Project Office shall release a request for proposals for development of conceptual designs for a maglev system and for research to facilitate the development of such conceptual designs.

“(B) AWARD OF CONTRACTS.—Not later than 15 months after the date of the enactment of this Act, the Secretary and the Assistant Secretary shall, based on the recommendations of the program director, award 1-year contracts for research and development to no fewer than 5 eligible applicants. If fewer than 5 complete applications have been received, contracts shall be awarded to as many eligible applicants as is practical.

“(C) FACTORS AND CONDITIONS TO BE CONSIDERED.—The Secretary and the Assistant Secretary may approve contracts under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights-of-way, the potential for the guideway design to be a national standard, the applicant’s resources, capabilities, and history of successfully designing and developing sys-

tems of similar complexity, and the desirability of geographic diversity among contractors and only if the applicant agrees to submit a report to the Maglev Project Office detailing the results of the research and development and agrees to provide for matching of the phase one contract at a 90 percent Federal, 10 percent non-Federal, cost share.

“(3) PHASE TWO CONTRACTS.—Within 3 months of receiving the final reports of contract activities under paragraph (2), and based only on such reports and the recommendations of the program director, the Secretary and the Assistant Secretary shall select not more than 3 eligible applicants from among the contract recipients submitting reports under paragraph (2) to receive 18-month contracts for research and development leading to a detailed design for a prototype maglev system. The Secretary and the Assistant Secretary may only award contracts under this paragraph if—

“(A) they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into an operational prototype as described in paragraph (4),

“(B) the applicant agrees to submit the detailed design within such 18-month period to the Maglev Project Office and the selection committee described in paragraph (4), and

“(C) the applicant agrees to provide for matching of the phase two contract at an 80 percent Federal, 20 percent non-Federal, cost share.

“(4) PROTOTYPE.—

“(A) SELECTION OF DESIGN.—Within 6 months of receiving the detailed designs developed under paragraph (3), the Secretary and the Assistant Secretary shall, based on the recommendations of the selection committee described in this subparagraph, select 1 design for development into a full-scale prototype, unless the Secretary and the Assistant Secretary determine jointly that no design shall be selected, based on an assessment of technical feasibility and projected cost of construction and operation of the prototype. A selection committee of 8 members, consisting of—

“(i) 1 member to be appointed by the Secretary,

“(ii) 1 member to be appointed by the Assistant Secretary,

“(iii) 3 members to be appointed by the Senate majority and minority leaders, and

“(iv) 3 members to be appointed by the Speaker of the House and the minority leader of the House,

shall be appointed not later than 1 year following the award of contracts under paragraph (3). The selection committee, within 3 months of receiving the detailed designs developed under paragraph (3), shall make a recommendation to the Secretary and the Assistant Secretary as to the best prototype design or the unsuitability of any design. The program director shall provide technical reviews of the phase two contract reports to the selection committee and otherwise provide any technical assistance that the committee requires to assist it in making a recommendation. In the event that the Secretary and the Assistant Secretary determine jointly not to select a design for development under this subsection, they shall report to Congress on the basis for such determination, together with recommendations for future action, including further research, development, or design, termination of the program, or such other action as may be appropriate.

“(B) AWARD OF CONSTRUCTION GRANT OR CONTRACT.—Unless the Secretary and the Assistant Secretary determine not to proceed pursuant to subparagraph (A), they shall, not later than 3 months after selection of a design for development into a full-scale prototype, and based on the recommendations of the program director, award 1 construction grant or contract to the applicant whose detailed design was selected under subparagraph (A) for the purpose of constructing a prototype maglev system in accordance with the se-

lected design. Not more than 75 percent of the cost of the project shall be borne by the United States.

“(C) FACTORS TO BE CONSIDERED IN SELECTION.—Selection of the detailed design under this paragraph shall be based on consideration of the following factors, among others:

“(i) The project shall be capable of utilizing Interstate highway rights-of-way along or above a significant portion of its route, and may also use railroad rights-of-way along or above any portion of the railroad route.

“(ii) The total length of guideway shall be at least 19 miles and allow significant full-speed operations between stops.

“(iii) The project shall be constructed and ready for operational testing within 3 years after the award of the contract or grant.

“(iv) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

“(v) The project shall be located in an area that provides a potential ridership base for future commercial operation.

“(vi) The project shall utilize a technology capable of being applied in commercial service in most parts of the contiguous United States.

“(vii) The project shall have at least 1 switch.

“(viii) The project shall be intermodal in nature connecting a major metropolitan area with an airport, port, passenger rail station, or other transportation mode.

“(D) ADDITIONAL FACTORS FOR CONSIDERATION.—In awarding a grant or contract under this paragraph, the Secretary shall encourage the development of domestic manufacturing capabilities. In selecting among eligible applicants, the Secretary shall consider existing railroads and equipment manufacturers with excess production capacity, including railroads that have experience in advanced technologies (including self-propelled cars).

“(5) LICENSING.—

“(A) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this subsection shall be disclosed.

“(B) COMMERCIAL INFORMATION.—The research, development, and use of any technology developed pursuant to an agreement reached pursuant to this subsection, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701–3714). In addition, the Secretary and the Assistant Secretary may require any grant or contract recipient to assure that research and development be performed substantially in the United States and that the products embodying the inventions made under any agreement pursuant to this subsection or produced through the use of such inventions be manufactured substantially in the United States.

“(6) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports to Congress on progress made under this subsection.

“(7) ELIGIBLE APPLICANT DEFINED.—For purposes of this subsection, the term ‘eligible applicant’ means a United States private business, United States public or private education and research organization, Federal laboratory, or a consortium of such businesses, organizations, and laboratories.”

SUBCHAPTER II—ADMINISTRATIVE

§ 321. Definitions

In this subchapter, “aeronautics”, “air commerce”, and “air navigation facility” have the

same meanings given those terms in section 40102(a) of this title.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2422; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103-272, §5(m)(8), July 5, 1994, 108 Stat. 1376; Pub. L. 103-429, §6(2), Oct. 31, 1994, 108 Stat. 4378.)

HISTORICAL AND REVISION NOTES
PUB. L. 97-449

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

A number of the source provisions of the subchapter are taken from 49:ch. 20. The text of 49:ch. 20 contains general definitions, some of which are used in those source provisions. The section includes those definitions from 49:ch. 20 that are used in the source provisions included in the subchapter.

PUB. L. 103-429

This makes a clarifying amendment to 49:321.

AMENDMENTS

1994—Pub. L. 103-429 struck out “, respectively” after “of this title”.

Pub. L. 103-272 substituted “section 40102(a) of this title” for “section 101(2), (4), and (8) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(2), (4), (8))”.

1984—Pub. L. 98-216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 9 of Pub. L. 103-429 provided that: “The amendments made by sections 6(2)–(15), (19)–(35), (37)–(39), (41), (44)–(52), (54)–(62), (65), (66)(B), (70), (73)–(76), and (78)–(81) of this Act [enacting section 41312 of this title and amending this section and sections 5103, 5104, 5115, 5125, 5307, 5318, 5320, 5323, 5326, 5327, 5331, 5337, 5565, 20136, 22108, 24501, 24904, 30141, 30165, 30166, 30308, 31501, 32101, 32304, 32309, 32505, 32703, 32705, 32706, 32908 to 32910, 32913, 33101, 33106, 40102, 40104, 40110, 41103, 41110, 41734, 44502, 44701, 44711, 44937, 45105, 45302, 46301, 46310, 46502, 47101, 47113, 47114, 47128, 47531, 47532, 60109, and 60112 of this title] shall take effect on July 5, 1994.”

§ 322. General powers

(a) The Secretary of Transportation may prescribe regulations to carry out the duties and powers of the Secretary. An officer of the Department of Transportation may prescribe regulations to carry out the duties and powers of the officer.

(b) The Secretary may delegate, and authorize successive delegations of, duties and powers of the Secretary to an officer or employee of the Department. An officer of the Department may delegate, and authorize successive delegations of, duties and powers of the officer to another officer or employee of the Department. However, the duties and powers specified in sections 103(c)(1), 104(c)(1), and 106(g)(1) of this title may not be delegated to an officer or employee outside the Administration concerned.

(c) On a reimbursable basis when appropriate, the Secretary may, in carrying out aviation duties and powers—

(1) use the available services, equipment, personnel, and facilities of other civilian or military departments, agencies, and instrumentalities of the United States Government, with their consent;

(2) cooperate with those departments, agencies, and instrumentalities in establishing and

using aviation services, equipment, and facilities of the Department; and

(3) confer and cooperate with, and use the services, records, and facilities of, State, territorial, municipal, and other agencies.

(d) The Secretary may make expenditures to carry out aviation duties and powers, including expenditures for—

(1) rent and personal services;

(2) travel expenses;

(3) office furniture, equipment, supplies, lawbooks, newspapers, periodicals, and reference books, including exchanges;

(4) printing and binding;

(5) membership in and cooperation with domestic or foreign organizations related to, or a part of, the civil aeronautics industry or the art of aeronautics;

(6) payment of allowances and other benefits to employees stationed in foreign countries to the same extent authorized for members of the Foreign Service of comparable grade;

(7) investigations and studies about aeronautics; and

(8) acquiring, exchanging, operating, and maintaining passenger-carrying aircraft and automobiles and other property.

(e) The Secretary may negotiate, without advertising, the purchase of technical or special property related to air navigation when the Secretary decides that—

(1) making the property would require a substantial initial investment or an extended period of preparation; and

(2) procurement by advertising would likely result in additional cost to the Government by duplication of investment or would result in duplication of necessary preparation that would unreasonably delay procuring the property.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2422.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
322(a)	49:1657(e)(1) (last 19 words), (2) (last 19 words), (f), (g).	Oct. 15, 1966, Pub. L. 89-670, §9(e)–(g), 80 Stat. 944.
322(b)	49:1344(d) (less words after semicolon).	Aug. 23, 1958, Pub. L. 85-726, §§302(k), 303(a), (d) (less words after semicolon), 80 Stat. 747, 749.
	49:1657(e)(1) (less last 19 words), (2) (less last 19 words), (3).	
	5 App. U.S.C.	Reorg. Plan No. 2 of 1968, eff. July 1, 1968, §2, 82 Stat. 1369.
322(c)	49:1343(i).	
322(d)	49:1344(a).	
322(e)	49:1344(e).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §303(e); added May 21, 1970, Pub. L. 91-258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94-353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96-470, §112(e), 94 Stat. 2240.

In the chapter, the words “Secretary of Transportation” and “Secretary” are substituted for “Administrator” in the provisions of the Federal Aviation Act of 1958 (Pub. L. 85-726, 72 Stat. 731) restated in the revised chapter because of the transfer of aviation functions to the Secretary under 49:1655(c)(1).

In subsection (a), the words “may prescribe regulations to carry out the duties and powers” are sub-

stituted for “may make such rules and regulations as may be necessary to carry out . . . functions, powers, and duties” for consistency and to eliminate unnecessary words. The text of 49:1657(f) and (g) is omitted as executed because the transfer of personnel, assets, and liabilities, etc., has been accomplished.

In subsection (b), the words “Except where this chapter vests in any administration, agency or board, specific functions, powers, and duties” before “the Secretary may” in 49:1657(e)(1) are omitted because of the specific wording of sections 103, 104, and 106 of the revised title. The words “in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to or vested in the Secretary in this chapter” before “delegate” in 49:1657(e)(1) are omitted because the authority of the Secretary to delegate is consolidated in the subsection. The words “the duties and powers of the Secretary” are substituted for “any of his residual functions, powers, and duties” in 49:1657(e)(1) and “any of the functions transferred to him by this reorganization plan” in section 2 of Reorganization Plan No. 2 of 1968 (eff. July 1, 1968, 82 Stat. 1369), for clarity and consistency. The words “as he may designate” and “of such functions, powers, and duties as he may deem desirable” are omitted as surplus each place they appear in 49:1657(e)(1) and (2). The text of section 322(b) (1st sentence) of the revised title is substituted for 49:1344(d) (less words after semicolon) for clarity and because of the transfer of aviation functions to the Secretary of Transportation under 49:1655(c)(1). The text of 49:1657(e)(2) (words before 2d comma) is omitted as unnecessary because the authority of an officer to delegate is consolidated in the subsection. The words “the duties and powers of the officer” are substituted for “such functions, powers, and duties” in 49:1657(e)(2) for clarity and consistency. The words “the duties and powers specified in sections 103(c)(1), 104(c)(1), and 106(g)(1) of this title” are substituted for “any of the statutory duties and responsibilities specifically assigned to them by this chapter” in 49:1657(e)(3) for clarity. The words “may not be delegated to an officer or employee outside the Administration concerned” are substituted for “The Administrators established by section 1652(e) of this title . . . may not delegate . . . outside of their respective administrations” in 49:1657(e)(3) for clarity and because of the restatement of the section.

In subsection (c), before clause (1), the words “aviation duties and powers” are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. In clause (2), the words “those departments, agencies, and instrumentalities” are substituted for “such other agencies and instrumentalities” in 49:1343(i) for clarity and consistency. The words “aviation . . . Department” are substituted for “Administration” in 49:1343(i) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1).

In subsection (d), before clause (1), the words “aviation duties and powers” are substituted for “for the exercise and performance of the powers and duties vested in and imposed upon him by law” in 49:1344(a) because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. The words “at the seat of government and elsewhere as may be necessary” after “expenditures” and “and as from time to time may be appropriated for by Congress” are omitted as surplus. In clause (8), the words “passenger-carrying aircraft and automobiles” are substituted for “passenger-carrying automobiles and aircraft” in 49:1344(a) for clarity. The words “such . . . as is necessary in the exercise and performance of the powers and duties of the Secretary” after “aircraft” in 49:1344(a) are omitted as unnecessary because of the restatement of the section. The text of 49:1344(a) (proviso) is omitted as unnecessary.

In subsection (e), before clause (1), the words “or in support of” are omitted as surplus. In clause (1), the words “making the property” are substituted for “for manufacture” for clarity. In clause (2), the word “for-

mal” is omitted as unnecessary. The word “unreasonably” is substituted for “unduly” for consistency.

EXECUTIVE ORDER NO. 11382

Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, as amended by Ex. Ord. No. 11428, Sept. 5, 1968, 32 F.R. 12719, upon establishment of Department of Transportation amended and revoked certain executive orders relating to transportation, and, in addition to any other authority, authorized Secretary of Transportation and Federal Aviation Administrator to redelegate and authorize successive redelegations of any authority conferred in the order or the orders amended by it.

§ 323. Personnel

(a) The Secretary of Transportation may appoint and fix the pay of officers and employees of the Department of Transportation and may prescribe their duties and powers.

(b) The Secretary may procure services under section 3109 of title 5. However, an individual may be paid not more than \$100 a day for services.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2423.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
323(a)	49:1343(d).	Aug. 23, 1958, Pub. L. 85-726, §302(f), 72 Stat. 746; Oct. 4, 1961, Pub. L. 87-367, §205(b), 75 Stat. 791; Oct. 11, 1962, Pub. L. 87-793, §1001(h), 76 Stat. 864.
	49:1343(f).	Aug. 23, 1958, Pub. L. 85-726, §302(h), 72 Stat. 746; Oct. 4, 1961, Pub. L. 87-367, §205(a), 75 Stat. 791.
	49:1657(a).	Oct. 15, 1966, Pub. L. 89-670, §9(a), (b), 80 Stat. 944; Mar. 27, 1978, Pub. L. 95-251, §2(a)(12), 92 Stat. 183.
323(b)	49:1343(g) (1st sentence 33d-43d words).	Aug. 23, 1958, Pub. L. 85-726, §302(i) (1st sentence 31st-41st words), 72 Stat. 747.
	49:1657(b).	

In the section, the word “pay” is substituted for “compensation” for consistency with title 5.

In subsection (a), the words “In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or any other officer in the Department” before “the Secretary” and “subject to the civil service and classification laws” before “to select” in 49:1657(a) are omitted as unnecessary because of title 5, especially sections 3301, 5101, and 5331. The word “appoint” is substituted for “select, employ, appoint” because it is inclusive. The words “attorneys, and agents” after “employees” in 49:1343(d) and “including investigators, attorneys, and administrative law judges” after “employees” in 49:1657(a) are omitted as included in “officers and employees”. The words “of the Department of Transportation” are substituted for “as are necessary to carry out the provisions of this chapter” for consistency.

The text of 49:1343(d) (words after 1st comma) is omitted because of section 414(a)(1)(B) of the Civil Service Reform Act of 1978 (Pub. L. 95-454, 92 Stat. 1177). The text of 49:1343(f) is omitted because of section 414(a)(2)(A) of that Act.

In subsection (b), the word “procure” is substituted for “obtain” to conform to 5:3109. The words “unless otherwise specified in an appropriation Act” after “individuals” in 49:1657(b) are omitted as surplus.

§ 324. Members of the armed forces

(a) The Secretary of Transportation—

(1) to ensure that national defense interests are safeguarded properly and that the Secretary is advised properly about the needs and special problems of the armed forces, shall provide for participation of members of the armed forces in carrying out the duties and powers of the Secretary related to the regulation and protection of air traffic, including providing for, and research and development of, air navigation facilities, and the allocation of airspace; and

(2) may provide for participation of members of the armed forces in carrying out other duties and powers of the Secretary.

(b) A member of the Coast Guard on active duty may be appointed, detailed, or assigned to a position in the Department of Transportation, except the position of Secretary, Deputy Secretary, or Assistant Secretary for Administration. A retired member of the Coast Guard may be appointed, detailed, or assigned to a position in the Department.

(c) The Secretary of Transportation and the Secretary of a military department may make cooperative agreements, including agreements on reimbursement as may be considered appropriate by the Secretaries, under which a member of the armed forces may be appointed, detailed, or assigned to the Department of Transportation under this section. The Secretary of Transportation shall send a report each year to the appropriate committees of Congress on agreements made to carry out subsection (a)(2) of this section, including the number, rank, and position of each member appointed, detailed, or assigned under those agreements.

(d) The Secretary of a military department does not control the duties and powers of a member of the armed forces appointed, detailed, or assigned under this section when those duties and powers pertain to the Department of Transportation. A member of the armed forces appointed, detailed, or assigned under subsection (a)(2) of this section may not be charged against a statutory limitation on grades or strengths of the armed forces. The appointment, detail, or assignment and service of a member under this section to a position in the Department of Transportation does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from that status, office, rank, or grade.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2423.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
324(a)(1)	49:1343(a)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §302(c)(1), (2) (related to cooperative agreements), 72 Stat. 745.
324(a)(2)	49:1657(c) (1st sentence).	Oct. 15, 1966, Pub. L. 89-670, §9(c), (d), 80 Stat. 944.
324(b)	49:1657(p).	Oct. 15, 1966, Pub. L. 89-670, §9(p), 80 Stat. 947; Oct. 28, 1974, Pub. L. 93-496, §16(b), 88 Stat. 1533.
324(c)	49:1343(a)(1) (less 1st sentence). 49:1657(c) (less 1st sentence), (d)(2).	
324(d)	49:1343(a)(2) (related to cooperative agreements). 49:1657(d)(1).	

In the section, the words “members of the armed forces” are substituted for “military personnel”, “Members of the Army, the Navy, the Air Force, or the Marine Corps”, and “members of the armed services” for clarity and to conform to title 10.

In subsection (a)(2), the words “other duties and powers of the Secretary” are substituted for “the functions of the Department” for clarity and consistency.

In subsection (b), the words “Notwithstanding any provision of this chapter or other law” before “a member” and “Subject to the provisions of title 5” before “a retired” are omitted as unnecessary.

In subsection (c), the words “The Secretary of Transportation and the Secretary of a military department may make cooperative agreements under which” are substituted for “by the appropriate Secretary, pursuant to cooperative agreements with the Secretary of Transportation” in 49:1343(a)(1) and 49:1657(c) for clarity. The words “or the Coast Guard” before “may be detailed” in 49:1343(a)(1) (2d sentence) are omitted because of the transfer of the Coast Guard to the Secretary under 49:1655(b) and the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words “may be appointed, detailed, or assigned” are substituted for “may be detailed” for clarity and consistency in 49:1343(a)(1) and 49:1657(c). The words “to the Department of Transportation” are substituted for “for service in the Administration to effect such participation” in 49:1343(a)(1) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1) and to eliminate unnecessary words. The words “in writing” after “annually” in 49:1657(d)(2) are omitted as unnecessary. The words “each member appointed, detailed, or assigned” are substituted for “personnel appointed” and “members of the armed services detailed” in 49:1657(d)(2) for clarity and consistency.

In subsection (d), the words “The Secretary of a military department” are substituted for “his armed force or any officer thereof” in 49:1657(d)(1) and “the department from which detailed or appointed or by any agency or officer thereof” in 49:1343(a)(2) for clarity and consistency. The words “directly or indirectly” before “with respect to” are omitted as surplus. The words “the duties and powers of . . . when those duties and powers pertain to the Department of Transportation” are substituted for “with respect to his responsibilities under this chapter or within the Administration” in 49:1343(a)(2) and “with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned” in 49:1657(d)(1) for consistency and because of the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words “does not control” are substituted for “No . . . shall be subject to direction or control by” in 49:1343(a)(2) and “shall not be subject to direction by or control by” 49:1657(d)(1) for clarity. The words “the acceptance of” before “and service” and “any appointive or other” before “position” in 49:1657(d)(1) are omitted as unnecessary. The words “a member” are added because of the restatement of the section. The words “that member” are substituted for “commissioned officers or enlisted men” in 49:1343(a)(2) and “officers and enlisted men” in 49:1657(d)(1) because of the restatement of the section and to eliminate unnecessary words. The word “held” is substituted 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 14 section 42.

§ 325. Advisory committees

(a) Without regard to the provisions of title 5 governing appointment in the competitive service, the Secretary of Transportation may appoint advisory committees to consult with and

advise the Secretary in carrying out the duties and powers of the Secretary.

(b) While attending a committee meeting or otherwise serving at the request of the Secretary, a member of an advisory committee may be paid not more than \$100 a day. A member is entitled to reimbursement for expenses under section 5703 of title 5. This subsection does not apply to individuals regularly employed by the United States Government.

(c) A member of an advisory committee advising the Secretary in carrying out aviation duties and powers may serve for not more than 100 days in a calendar year.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2424.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
325(a)	49:1343(g) (1st sentence 1st-32d words). 49:1657(o) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §302(i) (less 1st sentence 31st-41st words), 72 Stat. 747. Oct. 15, 1966, Pub. L. 89-670, §9(o), 80 Stat. 947.
325(b)	49:1343(g) (1st sentence 44th-53d words, last sentence). 49:1657(o) (last sentence).	
325(c)	49:1343(g) (1st sentence 54th-last words).	

In subsection (a), the words “provisions of title 5 governing appointment in the competitive service” are substituted for “civil service laws” in 49:1657(o) for clarity and consistency. The words “as shall be appropriate for the purpose of” before “consultation” in 49:1657(o) are omitted as surplus. The words “the Secretary in carrying out the duties and powers of the Secretary” are substituted for “the Department in performance of its functions” in 49:1657(o) and “the Administration in performance of its functions hereunder” in 49:1343(g) for clarity and consistency because the duties and powers are vested in the Secretary of Transportation.

In subsection (b), the word “compensation” after “may be paid” in 49:1657(o) is omitted as surplus. The words “not more than \$100 a day” are substituted for “at rates not exceeding those authorized for individuals under subsection (b) of this section” in 49:1657(o) for clarity because that is the rate under 49:1657(b). The words “A member is entitled to reimbursement for expenses under section 5703 of title 5” are substituted for 49:1343(g) (last sentence) and 49:1657(o) (last sentence words after 4th comma) for clarity.

In subsection (c), the words “A member of an advisory committee advising the Secretary” are substituted for “in the case of any individual” in 49:1343(g) for clarity. The words “may serve” are added for clarity and because of the restatement of the section. The words “in carrying out aviation duties and powers” are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 326. Gifts

(a) The Secretary of Transportation may accept and use conditional or unconditional gifts of property for the Department of Transportation. The Secretary may accept a gift of services in carrying out aviation duties and powers. Property accepted under this section and proceeds from that property must be used, as nearly as possible, under the terms of the gift.

(b) The Department has a fund in the Treasury. Disbursements from the fund are made on order of the Secretary. The fund consists of—

- (1) gifts of money;
- (2) income from property accepted under this section and proceeds from the sale of that property; and
- (3) income from securities under subsection (c) of this section.

(c) On request of the Secretary of Transportation, the Secretary of the Treasury may invest and reinvest amounts in the fund in securities of, or in securities whose principal and interest is guaranteed by, the United States Government.

(d) Property accepted under this section is a gift to or for the use of the Government under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2424; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
326(a)	49:1344(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §303(c)(1), 72 Stat. 748. Oct. 15, 1966, Pub. L. 89-670, §9(m), 80 Stat. 946.
326(b)	49:1657(m)(1) (1st, 3d sentences).	
326(c)	49:1657(m)(1) (2d sentence), (3) (less 1st sentence).	
326(d)	49:1657(m)(3) (1st sentence). 49:1657(m)(2).	

In the section, the word “gifts” is substituted for “gifts and bequests” in 49:1657(m)(1) because it is inclusive.

In subsection (a), the words “accept and use” are substituted for “accept, hold, administer, and utilize”, and the words “for the Department” are substituted for “for the purpose of aiding or facilitating the work of the Department” in 49:1657(m)(1), to eliminate unnecessary words. The word “property” is substituted for “property, both real and personal” in 49:1657(m)(1), and “gift or donation of money or other property, real and personal” in 49:1344(c)(1) to eliminate unnecessary words. The words “aviation duties and powers” are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. The words “under this section and proceeds from that property” are substituted for “pursuant to this paragraph, and the proceeds thereof” in 49:1657(m)(1) for clarity.

In subsection (b), the words “The Department has a” and “The fund consists of” are added for clarity and because of the restatement of the section. The word “separate” before “fund” is omitted as unnecessary and for consistency. The words “from the fund” are added for clarity. The words “accepted under this section” are substituted for “held by the Secretary pursuant to paragraph (1)” for clarity. The words “that property” are substituted for “other property received as gifts or bequests” to eliminate unnecessary words. The words “from securities under subsection (c) of this section” are substituted for “accruing from such securities” for clarity.

In subsection (c), the words “amounts in the fund” are substituted for “any moneys contained in the fund provided for in paragraph (1)” for clarity and consistency.

In subsection (d), the words “under this section” are substituted for “under paragraph (1)” because of the restatement of the section. The words “the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)” are substituted for “For the purpose of Federal income, estate, and gift taxes” for consistency.

AMENDMENTS

1986—Subsec. (d). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

§ 327. Administrative working capital fund

(a) The Department of Transportation has an administrative working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services the Secretary of Transportation decides are desirable for the efficiency and economy of the Department. The services may include—

- (1) a central supply service for stationery and other supplies and equipment through which adequate stocks may be maintained to meet the requirements of the Department;
- (2) central messenger, mail, telephone, and other communications services;
- (3) office space;
- (4) central services for document reproduction, and for graphics and visual aids; and
- (5) a central library service.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

(c) The fund consists of—

- (1) amounts appropriated to the fund;
- (2) the reasonable value of stocks of supplies, equipment, and other assets and inventories on order that the Secretary transfers to the fund, less the related liabilities and unpaid obligations;
- (3) amounts received from the sale or exchange of property; and
- (4) payments received for loss or damage to property of the fund.

(d) The fund shall be reimbursed, in advance, from amounts available to the Department or from other sources, for supplies and services at rates that will approximate the expenses of operation, including the accrual of annual leave and the depreciation of equipment. Amounts in the fund, in excess of amounts transferred or appropriated to maintain the fund, shall be deposited in the Treasury as miscellaneous receipts. All assets, liabilities, and prior losses are considered in determining the amount of the excess.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2425.)

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
327(d)	49:1657(j) (less 1st, 2d, 4th sentences).	

In subsection (a), the words “Department of Transportation has” are substituted for “Secretary is authorized to establish” because the working capital fund has been established. The words “administrative” before “working” and “Amounts in the fund are available” are added for clarity. The words “the Secretary of Transportation decides are” are substituted for “as he shall find to be” for clarity. The words “desirable for the economy” are substituted for “desirable in the interest of economy” to eliminate unnecessary words. The words “such services as” before “a central supply service” and “in whole or in part” before “the requirements of the Department” are omitted as surplus. The words “the requirements of the Department” are substituted for “the requirements of the Department and its agencies” because they are inclusive.

In subsection (b), the words “Amounts in the fund” are added for clarity. The words “Amounts may be appropriated to the fund” are substituted for “(which appropriations are hereby authorized)” for clarity.

In subsection (c), the words “The fund consists of” are substituted for “The capital of the fund shall consist of” and “The fund shall also be credited with” for clarity. The word “reasonable” is substituted for “fair and reasonable” because it is inclusive. The words “amounts appropriated to the fund” are substituted for “of any appropriations made for the purpose of providing capital” for clarity. The words “amounts received from the sale” are substituted for “receipts from the sale”, and the words “payments received for loss” are substituted for “receipts in payment for”, as being more precise.

In subsection (d), the words “agencies and offices in” after “available funds of” are omitted because they are included in “Department”. The words “Amounts in the fund, in excess of amounts” are added for clarity. The words “any surplus found in the fund . . . above the” after “miscellaneous receipts” are omitted because of the restatement of this section. The words “to establish and” before “maintain” are omitted because the working capital fund has been established. The words “deposited in the Treasury” are substituted for “covered into the United States Treasury” for consistency. The words “are . . . in determining the amount of the excess” are added for clarity.

§ 328. Transportation Systems Center working capital fund

(a) The Department of Transportation has a Transportation Systems Center working capital fund. Amounts in the fund are available for financing the activities of the Center, including research, development, testing, evaluation, analysis, and related activities the Secretary of Transportation approves, for the Department, other agencies, State and local governments, other public authorities, private organizations, and foreign countries.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

(c) The capital of the fund consists of—

- (1) amounts appropriated to the fund;
- (2) net assets of the Center as of October 1, 1980, including unexpended advances made to the Center for which valid obligations were incurred before October 1, 1980;
- (3) the reasonable value of property and other assets transferred to the fund after September 30, 1980, less the related liabilities and unpaid obligations; and

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
327(a)	49:1657(j) (1st sentence less 11th-17th words).	Oct. 15, 1966, Pub. L. 89-670, § 9(j), 80 Stat. 945.
327(b)	49:1657(j) (1st sentence 11th-17th words, 2d sentence, 18th-22d words).	
327(c)	49:1657(j) (2d sentence less 18th-22d words, 4th sentence).	

(4) the reasonable value of property and other assets donated to the fund.

(d) The fund shall be reimbursed or credited with—

(1) advance payments from applicable funds or appropriations of the Department and other agencies, and with advance payments from other sources, the Secretary authorizes, for—

(A) services at rates that will recover the expenses of operation, including the accrual of annual leave and overhead; and

(B) acquiring property and equipment under regulations the Secretary prescribes; and

(2) receipts from the sale or exchange of property or in payment for loss or damage of property held by the fund.

(e) The Secretary shall deposit at the end of each fiscal year, in the Treasury as miscellaneous receipts, amounts accruing in the fund that the Secretary decides are in excess of the needs of the fund.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2425.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
328(a)	49:1657(r)(1) (1st sentence, 2d sentence words before last comma, last sentence).	Oct. 15, 1966, Pub. L. 89-670, 80 Stat. 931, §9(r); added May 30, 1980, Pub. L. 96-254, §207, 94 Stat. 413.
328(b)	49:1657(r)(1) (2d sentence words after last comma), (2)(B) (words after last comma).	
328(c)	49:1657(r)(2)(A), (B) (words before last comma), (C).	
328(d)	49:1657(r)(3).	
328(e)	49:1657(r)(4).	

In subsection (a), the words “Department of Transportation has” are substituted for “Secretary is authorized to establish” because the working capital fund has been established. The text of 49:1657(r)(1) (2d sentence words before last comma) are omitted as executed. The words “The Transportation Systems Center is authorized to perform” are omitted as unnecessary because of the restatement. The word “approves” is substituted for “direct . . . and, when approved by the Secretary” to eliminate unnecessary words. The words “or his designee” are omitted because of section 322(b) of the revised title.

In subsection (c)(3) and (4), the words “fair and” are omitted as surplus.

In subsection (c)(3), the words “by the Department and other agencies of the Government” are omitted as surplus.

In subsection (c)(4), the words “from other sources” are omitted as surplus.

In subsection (d)(1), before clause (A), the words “or his designee” are omitted because of section 322(b) of the revised title.

In subsection (e), the words “The Secretary shall deposit” are substituted for “there shall be transferred” for clarity and consistency. The words “in the fund” are added for clarity.

§ 329. Transportation information

(a) The Secretary of Transportation may collect and collate transportation information the Secretary decides will contribute to the improvement of the transportation system of the United States. To the greatest practical extent,

the Secretary shall use information available from departments, agencies, and instrumentalities of the United States Government and other sources. To the extent practical, the Secretary shall make available to other Government departments, agencies, and instrumentalities and to the public the information collected under this subsection.

(b) The Secretary shall—

(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under chapter 11 of this title) including, at a minimum, information on (A) the origin and destination of passengers in interstate air transportation (as those terms are used in such Act),¹ and (B) the number of passengers traveling by air between any two points in interstate air transportation; except that in no case shall the Secretary require an air carrier to provide information on the number of passengers or the amount of cargo on a specific flight if the flight and the flight number under which such flight operates are used solely for interstate air transportation and are not used for providing essential air transportation under subchapter II of chapter 417 of this title;

(2) study the possibilities of developing air commerce and the aeronautical industry; and

(3) exchange information on civil aeronautics with governments of foreign countries through appropriate departments, agencies, and instrumentalities of the Government.

(c)(1) On the written request of a person, a State, territory, or possession of the United States, or a political subdivision of a State, territory, or possession, the Secretary may—

(A) make special statistical studies on foreign and domestic transportation;

(B) make special studies on other matters related to duties and powers of the Secretary;

(C) prepare, from records of the Department of Transportation, special statistical compilations; and

(D) provide transcripts of studies, tables, and other records of the Department.

(2) The person or governmental authority requesting information under paragraph (1) of this subsection must pay the actual cost of preparing the information. Payments shall be deposited in the Treasury in an account that the Secretary shall administer. The Secretary may use amounts in the account for the ordinary expenses incidental to getting and providing the information.

(d) To assist in carrying out duties and powers under part A of subtitle VII of this title, the Secretary of Transportation shall maintain separate cooperative agreements with the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration for the timely exchange of information on their programs, policies, and requirements directly related to carrying out that Act.²

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2426; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L.

¹ So in original. Probably should be “(as that term is used in part A of subtitle VII of this title).”

² So in original. Probably should be “that part.”

98-443, §5(a), Oct. 4, 1984, 98 Stat. 1705; Pub. L. 103-272, §4(j)(7), July 5, 1994, 108 Stat. 1366.)

HISTORICAL AND REVISION NOTES
PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
329(a)	49:1634. 49:1655(a)(2)(A) (related to 49:1634).	Sept. 30, 1965, Pub. L. 89-220, §4, 79 Stat. 893. Oct. 15, 1965, Pub. L. 89-670, §§6(a)(2)(A) (related to §4 of the Act of Sept. 30, 1965), 9(n), 80 Stat. 937, 946. Aug. 23, 1958, Pub. L. 85-726, §311, 72 Stat. 751.
329(b)	49:1352.	
329(c)(1)	49:1657(n)(1) (less last 17 words).	
329(c)(2)	49:1657(m)(1) (last 17 words), (2).	
329(d)	49:1343(b).	Aug. 23, 1958, Pub. L. 85-726, §302(d), 72 Stat. 746.

In subsection (a), the word “information” is substituted for “data, statistics, and other information” in 49:1634 to eliminate unnecessary words. The words “transportation system of the United States” are substituted for “national transportation system” in 49:1634 for clarity and consistency. The words “in carrying out this activity” before “the Secretary shall” in 49:1634 are omitted as surplus. The words “departments, agencies, and instrumentalities of the United States Government” are substituted for “Federal agencies” in 49:1634 for clarity and consistency. The words “To the greatest extent practical” are substituted for “insofar as practicable” in 49:1634 for consistency. The words “The Secretary shall” are added for clarity.

In subsection (b), the words “by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.) or the Civil Aeronautics Board under title IV of that Act (49 U.S.C. 1371 et seq.)” are substituted for “the Board under subchapter IV and VII of this chapter” in 49:1352 because 49:1655(d) (1st sentence) transferred duties of the Civil Aeronautics Board under 49:ch. 20, subch. VII to the Secretary of Transportation to be carried out through the National Transportation Safety Board. The reference to the National Transportation Safety Board is to the independent Board established by section 303(a) of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2167) outside the Department of Transportation and not to the prior Board that was a part of the Department. The words “departments, agencies, and instrumentalities of the Government” are substituted for “government channels” in 49:1352 for clarity and consistency.

In subsection (c)(1), the words “of the United States” are added for clarity and consistency. The words “of a State, territory, or possession” are substituted for “thereof” after “subdivision” for clarity. The words “related to the duties and powers of the Secretary” are substituted for “falling within the province of the Department” for clarity and consistency.

In subsection (c)(2), the words “governmental authority requesting information under paragraph (1) of this subsection” are substituted for “body requesting it” for clarity and consistency. The word “separate” before “account” is omitted as unnecessary and for consistency. The words “must pay” are substituted for “upon the payment” after “other records” for clarity. The words “preparing the information” are substituted for “such work” after “actual cost of” for clarity. The word “payments” is substituted for “All moneys received by the Department in payment of the cost of work under paragraph (1)” to eliminate unnecessary words. The words “in the Treasury” are added for clarity and consistency. The words “The Secretary may use amounts in the account” are substituted for “These moneys may be used, in the discretion of the Secretary” for clarity and to eliminate unnecessary words. The words “to getting and providing the information” are substituted for “to the work and/or to secure in connection therewith the special services of persons

who are neither officers nor employees of the United States” for clarity and to eliminate unnecessary words.

In subsection (d), the words “in carrying out duties and powers under the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.)” are substituted for “in discharge of responsibilities under this chapter” in 49:1343(b) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1) and for consistency. The words “directly related to carrying out that part” are substituted for “directly relating to such responsibilities” in 49:1343(b) because of the restatement of the source provisions.

PUB. L. 103-272

Section 4(j)(7) amends 49:329 to omit references to overseas air transportation because there no longer is a distinction between interstate air transportation and overseas air transportation.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103-272, §4(j)(7)(A), substituted “chapter 11 of this title” for “title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.)”, “in interstate air transportation” for “in interstate and overseas air transportation” in two places, “for interstate air transportation” for “for interstate or overseas air transportation”, and “subchapter II of chapter 417 of this title” for “section 419 of the Federal Aviation Act of 1958”.

Subsec. (d). Pub. L. 103-272, §4(j)(7)(B), substituted “part A of subtitle VII of this title” for “the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)”.

1984—Subsec. (b)(1). Pub. L. 98-443 struck out reference to information collected and disseminated by the Civil Aeronautics Board under section 1371 et seq. of this title, and added cls. (A) and (B).

Pub. L. 98-216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

Subsec. (d). Pub. L. 98-216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 5(b) of Pub. L. 98-443 provided that: “The amendment made by this section [amending this section] shall take effect on January 1, 1985.”

§ 330. Research contracts

(a) The Secretary of Transportation may make contracts with educational institutions, public and private agencies and organizations, and persons for scientific or technological research into a problem related to programs carried out by the Secretary. Before making a contract, the Secretary must require the institution, agency, organization, or person to show that it is able to carry out the contract.

(b) In carrying out this section, the Secretary shall—

(1) give advice and assistance the Secretary believes will best carry out the duties and powers of the Secretary;

(2) participate in coordinating all research started under this section;

(3) indicate the lines of inquiry most important to the Secretary; and

(4) encourage and assist in establishing and maintaining cooperation by and between contractors and between them and other research organizations, the Department of Transportation, and other departments, agencies, and instrumentalities of the United States Government.

(c) The Secretary may distribute publications containing information the Secretary considers relevant to research carried out under this section.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2427.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
330(a)	49:1657(q)(1).	Oct. 15, 1966, Pub. L. 89-670, §9(q)(1)-(3), 80 Stat. 947.
330(b)	49:1657(q)(2) (1st sentence).	
330(c)	49:1657(q)(2) (less 1st sentence). 49:1657(q)(3).	

In subsection (a), the words “may make contracts” are substituted for “is authorized to enter into contracts” to eliminate unnecessary words. The words “the conduct of” before “scientific” are omitted as surplus. The words “a problem” are substituted for “any aspect of the problems” because of the style of the revised title. The words “carried out by the Secretary” are substituted for “of the Department which are authorized by statute” because the Secretary of Transportation is vested with all duties and powers. The words “Before making a contract” are substituted for “with which he expects to enter into contracts pursuant to this subsection” for clarity and to eliminate unnecessary words. The words “is able to carry out the contract” are substituted for “have the capability of doing effective work” for clarity.

In subsection (b), before clause (1), the words “In carrying out this section” are added for clarity. In clause (1), the word “give” is substituted for “furnish” before “such advice” for consistency. The words “duties and powers of the Secretary” are substituted for “mission of the Department” for clarity and consistency. In clause (4), the word “contractors” is substituted for “the institutions, agencies, organizations, or persons” to eliminate unnecessary words. The words “departments, agencies, and instrumentalities of the United States Government” are substituted for “Federal agencies” for clarity and consistency.

In subsection (c), the words “considers relevant” are substituted for “as he deems pertinent” as more precise. The words “from time to time” before “disseminate” and “in the form of reports or . . . to public or private agencies or organizations, or individuals” before “such information” are omitted as unnecessary.

§ 331. Service, supplies, and facilities at remote places

(a) When necessary and not otherwise available, the Secretary of Transportation may provide for, construct, or maintain the following for officers and employees of the Department of Transportation and their dependents stationed in remote places:

- (1) emergency medical services and supplies.
- (2) food and other subsistence supplies.
- (3) messing facilities.
- (4) motion picture equipment and film for recreation and training.
- (5) living and working quarters and facilities.
- (6) reimbursement for food, clothing, medicine, and other supplies provided by an officer or employee in an emergency for the temporary relief of individuals in distress.

(b) The Secretary shall prescribe reasonable charges for medical treatment provided under subsection (a)(1) of this section and for supplies and services provided under subsection (a)(2) and (3) of this section. Amounts received under this subsection shall be credited to the appropriation from which the expenditure was made.

(c) When appropriations for a fiscal year for aviation duties and powers have not been made

before June 1 immediately before the beginning of the fiscal year, the Secretary may designate an officer, and authorize that officer, to incur obligations to buy and transport supplies to carry out those duties and powers at installations outside the 48 contiguous States and the District of Columbia. The amount obligated under this subsection in a fiscal year may be not more than 75 percent of the amount available for buying and transporting supplies to those installations for the then current fiscal year. Payment of obligations under this subsection shall be made from appropriations for the next fiscal year when available.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2427; Pub. L. 103-272, §4(j)(8), July 5, 1994, 108 Stat. 1367.)

HISTORICAL AND REVISION NOTES
PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
331(a)	49:1657(l) (less last sentence).	Oct. 15, 1966, Pub. L. 89-670, §9(l), 80 Stat. 946.
331(b)	49:1657(l) (last sentence).	
331(c)	49:1344(b).	Aug. 23, 1958, Pub. L. 85-726, §303(b), 72 Stat. 748.

In subsection (a), the text of 49:1657(l) (words before 3d comma) is omitted as unnecessary. The words “of the Department of Transportation” are added for clarity. In clause (6), the words “individuals in distress” are substituted for “distressed persons” as being more precise.

In subsection (b), the words “The Secretary shall prescribe reasonable charges” are substituted for “shall be at prices reflecting reasonable value as determined by the Secretary” for clarity and to eliminate surplus words. The words “services, supplies, and facilities provided under subsection (a)(1), (2), and (3) of this section” are substituted for “The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection” to eliminate surplus words. The words “Amounts received under this subsection” are substituted for “and the proceeds therefrom” for clarity.

In subsection (c), the words “aviation duties and powers” are substituted for “the Administration” in 49:1344(b) because of the transfer of aviation functions to the Secretary of Transportation under 49:1655(c)(1). The words “before June 1” are substituted for “prior to the first day of March” in 49:1344(b) to conform to the change in the start of the fiscal year from July 1 to October 1 under 31:1020(a)(2). The words “and materials necessary” after “supplies” in 49:1344(b) are omitted as surplus. The words “to carry out those duties and powers” are substituted for “necessary to the proper execution of the Secretary of Transportation’s functions” in 49:1344(b) for clarity and consistency. The words “the 48 contiguous States and the District of Columbia” are substituted for “the continental United States” in 49:1344(b) for clarity. The words “including those in Alaska” before “in amounts” in 49:1344(b) are omitted as unnecessary because of the restatement of the section. The words “The amount obligated under this subsection in a fiscal year” in 49:1344(b) are added for clarity. The words “available for buying and transporting supplies to those installations” are substituted for “made available for such purposes” in 49:1344(b) for clarity. The word “succeeding” after “next” in 49:1344(b) is omitted as surplus.

PUB. L. 103-272

Section 4(j)(8) amends 49:331(b) to follow more closely the language in former 49:1657(l) on which it was based.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-272 substituted “medical treatment provided under subsection (a)(1) of this sec-

tion and for supplies and services provided under subsection (a)(2) and (3) of this section” for “services, supplies, and facilities provided under subsection (a)(1), (2), and (3) of this section”.

§ 332. Minority Resource Center

(a) In this section, “minority” includes women.

(b) The Department of Transportation has a Minority Resource Center. The Center may—

(1) include a national information clearinghouse for minority entrepreneurs and businesses to disseminate information to them on business opportunities related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the railroads of the United States;

(2) carry out market research, planning, economic and business analyses, and feasibility studies to identify those business opportunities;

(3) assist minority entrepreneurs and businesses in obtaining investment capital and debt financing;

(4) design and carry out programs to encourage, promote, and assist minority entrepreneurs and businesses in getting contracts, subcontracts, and projects related to those business opportunities;

(5) develop support mechanisms (including venture capital, surety and bonding organizations, and management and technical services) that will enable minority entrepreneurs and businesses to take advantage of those business opportunities;

(6) participate in, and cooperate with, United States Government programs and other programs designed to provide financial, management, and other forms of support and assistance to minority entrepreneurs and businesses; and

(7) make arrangements to carry out this section.

(c) The Center has an advisory committee of 5 individuals appointed by the Secretary of Transportation. The Secretary shall make the appointments from lists of qualified individuals recommended by minority-dominated trade associations in the minority business community. Each of those trade associations may submit a list of not more than 3 qualified individuals.

(d) The United States Railway Association, the Consolidated Rail Corporation, and the Secretary shall provide the Center with relevant information (including procurement schedules, bids, and specifications on particular maintenance, rehabilitation, restructuring, improvement, and revitalization projects) the Center requests in carrying out this section.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2428.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
332(a)	49:1657a(e).	Oct. 15, 1966, Pub. L. 89-670, 80 Stat. 931, §11; added Feb. 5, 1976, Pub. L. 94-210, §906(2), 90 Stat. 149.
332(b)	49:1657a(a), (c).	
332(c)	49:1657a(b).	
332(d)	49:1657a(d).	

In subsection (b), before clause (1), the word “has” is substituted for “The Secretary shall, within 180 days

after February 5, 1976, establish” because the time for establishing the Center has expired and the Center has been established. The words “The Department of Transportation” are added because of the restatement of the section. The words “(hereafter in this section referred to as the ‘Center’)” after “Minority Resource Center” are omitted because of the style of the revised title.

In subsection (b)(1), the word “include” is substituted for “establish and maintain”, and the words “to disseminate information” are substituted for “and disseminate information from”, for clarity. The words “to them . . . related to” are substituted for “to such entrepreneurs and businesses . . . with respect to” to omit unnecessary words. The words “for purposes of furnishing . . . information” before “with respect to” are omitted as surplus.

In subsection (b)(2), the words “those business opportunities” are substituted for “such opportunities” after “identify” for clarity.

In subsection (b)(4), the words “those business opportunities” are substituted for “the maintenance, rehabilitation, restructuring, improvement, and revitalization of the Nation’s railroads” to eliminate surplus words.

In subsection (b)(5), the words “related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the nation’s railroads” are omitted as unnecessary because of the restatement.

In subsection (b)(7), the words “make arrangements” are substituted for “enter into such contracts, cooperative agreements, or other transactions” to eliminate unnecessary words. The words “as may be necessary” after “transactions” are omitted as surplus. The words “to carry out this section” are substituted for “in the conduct of its functions and duties” for clarity and consistency.

In subsection (c), the words “The Secretary shall make the appointments” and the words “Each of those trade associations may submit a list of not more than” are added for clarity and because of the restatement of the section.

In subsection (d), the words “in carrying out this section” are substituted for “in connection with the performance of its functions” for clarity and consistency.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

The United States Railway Association abolished effective Apr. 1, 1987, all powers, duties, rights, and obligations of Association relating to Consolidated Rail Corporation under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) transferred to Secretary of Transportation on Jan. 1, 1987, and any securities of Corporation held by Association transferred to Secretary of Transportation on Oct. 21, 1986, see section 1341 of Title 45, Railroads.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 306 of this title.

§ 333. Responsibility for rail transportation unification and coordination projects

(a) The Secretary of Transportation may develop and make available to interested persons any plans, proposals, and recommendations for mergers, consolidations, reorganizations, and other unification or coordination projects for rail transportation (including arrangements for joint use of tracks and other facilities and acquisition or sale of assets) that the Secretary believes will result in a rail system that is more efficient and consistent with the public interest.

(b) To achieve a more efficient, economical, and viable rail system in the private sector, the Secretary, when requested by a rail carrier and under this section, may assist in planning, negotiating, and carrying out a unification or coordi-

nation of operations and facilities of at least 2 rail carriers.

(c)(1) The Secretary may conduct studies to determine the potential cost savings and possible improvements in the quality of rail transportation that are likely to result from unification or coordination of at least 2 rail carriers, through—

- (A) elimination of duplicating or overlapping operations and facilities;
- (B) reducing switching operations;
- (C) using the shortest or more efficient and economical routes;
- (D) exchanging trackage rights;
- (E) combining trackage and terminal or other facilities;
- (F) upgrading tracks and other facilities used by at least 2 rail carriers;
- (G) reducing administrative and other expenses; and
- (H) other measures likely to reduce costs and improve rail transportation.

(2) When the Secretary requests information for a study under this section, a rail carrier shall provide the information requested. In carrying out this section, the Secretary may designate an officer or employee to get from a rail carrier information on the kind, quality, origin, destination, consignor, consignee, and routing of property. This information may be obtained without the consent of the consignor or consignee notwithstanding section 11910(a)(1) of this title. When appropriate, the designated officer or employee has the powers described in section 203(c) of the Regional Rail Reorganization Act of 1973 to carry out this section, but a subpoena must be issued under the signature of the Secretary.

(d)(1) When requested by a rail carrier, the Secretary may hold conferences on and mediate disputes resulting from a proposed unification or coordination project. The Secretary may invite to a conference—

- (A) officers and directors of an affected rail carrier;
- (B) representatives of rail carrier employees who may be affected;
- (C) representatives of the Interstate Commerce Commission;
- (D) State and local government officials, shippers, and consumer representatives; and
- (E) representatives of the Federal Trade Commission and the Attorney General.

(2) A person attending or represented at a conference on a proposed unification or coordination project is not liable under the antitrust laws of the United States for any discussion at the conference and for any agreements reached at the conference, that are entered into with the approval of the Secretary to achieve or determine a plan of action to carry out the unification or coordination project.

(e) When the approval of a proposal submitted by a rail carrier for a merger or other action is subject to the jurisdiction of the Interstate Commerce Commission under section 11343(a) of this title, the Secretary may study the proposal to decide whether it satisfies section 11344(b) of this title. When the proposal is the subject of an application and proceeding before the Commis-

sion, the Secretary may appear in any proceeding related to the application.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2429.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
333(a)	49:1654(a).	Oct. 15, 1966, Pub. L. 89-670, 80 Stat. 931, §5(a)-(e); added Feb. 5, 1976, Pub. L. 94-210, §401, 90 Stat. 61.
333(b)	49:1654(b).	
333(c)	49:1654(c).	
333(d)	49:1654(d).	
333(e)	49:1654(e).	

In the section, the word “transportation” is substituted for “services” for consistency.

In subsection (a), the words “feasible” and “but not limited to” are omitted as surplus.

In subsection (b), the words “In order” are omitted as surplus. The words “at least 2” are substituted for “two or more” for consistency.

In subsection (c)(1), the words “as are deemed” are omitted as unnecessary.

In subsection (c)(2), the words “and the study described in section 901 of the Railroad Revitalization and Regulatory Reform Act of 1976” and “or such section 901” are omitted as executed. The word “nature” is omitted as covered by “kind”. The word “When” is substituted for “to the extent” for consistency. The word “necessary” is omitted as being included in “appropriate”. A cross-reference to section 203(c) of the Regional Rail Reorganization Act of 1973 is included even though the law is unclear because section 1149 of the Omnibus Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 675) amended section 203 to repeal the powers referred to in the source provisions. No position is taken as to whether the powers described in section 203(c) are still in existence.

In subsection (d)(1)(A), the word “appropriate” is omitted as surplus.

In subsection (d)(1)(C), the words “representatives of” are added for consistency in the section.

In subsection (e), the words “in his judgment” are omitted as unnecessary and covered by “decide”. The word “satisfies” is substituted for “is in accordance with the standards set forth in” to eliminate unnecessary words.

REFERENCES IN TEXT

Section 203 of the Regional Rail Reorganization Act of 1973, referred to in subsec. (c)(2), which is classified to section 713 of Title 45, Railroads, was amended generally by Pub. L. 97-35, title XI, §1149, Aug. 13, 1981, 95 Stat. 675, and as so amended does not contain a subsec. (c). For further details, see the fifth par. of Historical and Revision Notes above.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 306, 10904, 11344, 11346 of this title; title 45 section 903.

[[§§ 334, 335. Repealed. Pub. L. 103-272, § 4(j)(9)(A), July 5, 1994, 108 Stat. 1367]

Section 334, Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2430; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 100-223, title III, §304, Dec. 30, 1987, 101 Stat. 1525; Pub. L. 100-690, title VII, §7207(c)(3), Nov. 18, 1988, 102 Stat. 4428, related to a limit on aviation charges. See section 45301 of this title.

Section 335, Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2430, authorized appropriations to the Secretary of Transportation for fiscal years ending Sept. 30, 1983, and Sept. 30, 1984.

§ 336. Civil penalty procedures

(a) After notice and an opportunity for a hearing, a person found by the Secretary of Trans-

portation to have violated a provision of law that the Secretary carries out through the Maritime Administrator or the Commandant of the Coast Guard or a regulation prescribed under that law by the Secretary for which a civil penalty is provided, is liable to the United States Government for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty until the assessment is referred to the Attorney General.

(c) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(d) The Secretary may refund or remit a civil penalty collected under this section if—

(1) application has been made for refund or remission of the penalty within one year from the date of payment; and

(2) the Secretary finds that the penalty was unlawfully, improperly, or excessively imposed.

(Added Pub. L. 101–225, title III, §305(1), Dec. 12, 1989, 103 Stat. 1924.)

§ 337. Budget request for the Director of Intelligence and Security

The annual budget the Secretary of Transportation submits shall include a specific request for the Office of the Director of Intelligence and Security. In deciding on the budget request for the Office, the Secretary shall consider recommendations in the annual report submitted under section 44938(a) of this title.

(Pub. L. 103–272, §4(j)(10)(A), July 5, 1994, 108 Stat. 1367.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
337	49 App.:1652b (note).	Nov. 16, 1990, Pub. L. 101–604, §102(d), 104 Stat. 3069.

The words “the Secretary of Transportation submits” are substituted for “submission for the Department of Transportation”, and the words “budget request for the Office” are substituted for “budget request for the Director”, for clarity and consistency in the revised title and with other titles of the United States Code.

SUBCHAPTER III—MISCELLANEOUS

§ 351. Judicial review of actions in carrying out certain transferred duties and powers

(a) JUDICIAL REVIEW.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, the Federal

Highway Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.

(b) APPLICATION OF PROCEDURAL REQUIREMENTS.—A statutory requirement related to notice, an opportunity for a hearing, action on the record, or administrative review that applied to a duty or power transferred by the Act applies to the Secretary or Administrator when carrying out the duty or power.

(c) NONAPPLICATION.—This section does not apply to a duty or power transferred from the Interstate Commerce Commission to the Secretary under section 6(e)(1)–(4) and (6)(A) of the Act.

(Pub. L. 103–272, §4(j)(10)(A), July 5, 1994, 108 Stat. 1367.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
351	49 App.:1653(c).	Oct. 15, 1966, Pub. L. 89–670, §4(c), 80 Stat. 933.

In this subchapter, the words “duty or power” are substituted for “functions, powers, and duties” for clarity and consistency. The words “department, agency, or instrumentality of the United States Government” are substituted for “department or agency” for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the word “orders” is omitted as being included in “action”.

REFERENCES IN TEXT

The Department of Transportation Act, referred to in subsecs. (a) and (b), is Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, as amended, which was classified principally to sections 1651 to 1660 of former Title 49, Transportation. The Act was repealed and the provisions thereof reenacted in Title 49, Transportation, by Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2413, and Pub. L. 103–272, July 5, 1994, 108 Stat. 745. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

§ 352. Authority to carry out certain transferred duties and powers

In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Highway Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.

(Pub. L. 103–272, §4(j)(10)(A), July 5, 1994, 108 Stat. 1368.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
352	49 App.:1653(d).	Oct. 15, 1966, Pub. L. 89-670, § 4(d), 80 Stat. 934.

The words "force and" are omitted as surplus.

REFERENCES IN TEXT

The Department of Transportation Act, referred to in text, is Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, as amended, which was classified principally to sections 1651 to 1660 of former Title 49, Transportation. The Act was repealed and the provisions thereof reenacted in Title 49, Transportation, by Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2413, and Pub. L. 103-272, July 5, 1994, 108 Stat. 745. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

§ 353. Toxicological testing of officers and employees

(a) COLLECTING SPECIMENS.—When the Secretary of Transportation or the head of a component of the Department of Transportation conducts post-accident or post-incident toxicological testing of an officer or employee of the Department, the Secretary or head shall collect the specimen from the officer or employee as soon as practicable after the accident or incident. The Secretary or head shall try to collect the specimen not later than 4 hours after the accident or incident.

(b) REPORTS.—The head of each component shall submit a report to the Secretary on the circumstances about the amount of time required to collect the specimen for a toxicological test conducted on an officer or employee who is reasonably associated with the circumstances of an accident or incident under the investigative jurisdiction of the National Transportation Safety Board.

(c) NONCOMPLIANCE NOT A DEFENSE.—An officer or employee required to submit to toxicological testing may not assert failure to comply with this section as a claim, cause of action, or defense in an administrative or judicial proceeding.

(Pub. L. 103-272, § 4(j)(10)(A), July 5, 1994, 108 Stat. 1368.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
353	49 App.:1657-1.	Nov. 28, 1990, Pub. L. 101-641, § 5, 104 Stat. 4656.

In this section, the words "officer or employee" are substituted for "employee" for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words "Secretary of Transportation or the head of a component of the Department of Transportation" are substituted for "Department of Transportation, including any of its agencies" for consistency in the revised title and with other titles of the Code.

In subsection (b), the word "Secretary" is substituted for "Office of the Secretary of Transportation" for consistency in the revised title and with other titles of the Code. The words "within that agency" are omitted as unnecessary.

In subsection (c), the words "An officer or employee required to submit to toxicological testing may not as-

sert" are substituted for "may not be asserted" for clarity.

CHAPTER 5—SPECIAL AUTHORITY

SUBCHAPTER I—DUTIES AND POWERS

- Sec.
- 501. Definitions and application.
- 502. General authority.
- 503. Service of notice and process on certain motor carriers of migrant workers and on motor private carriers.
- 504. Reports and records.
- 505. Arrangements and public records.
- 506. Authority to investigate.
- 507. Enforcement.
- [508. Repealed.]

SUBCHAPTER II—PENALTIES

- 521. Civil penalties.
- 522. Reporting and record keeping violations.
- 523. Unlawful disclosure of information.
- 524. Evasion of regulation of motor carriers.
- 525. Disobedience to subpoenas.
- 526. General criminal penalty when specific penalty not provided.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 104 of this title.

SUBCHAPTER I—DUTIES AND POWERS

§ 501. Definitions and application

(a) In this chapter—

(1) the definitions in section 10102 of this title apply.

(2) "migrant worker" has the same meaning given that term in section 31501 of this title.

(3) "motor carrier of migrant workers" means a motor carrier of migrant workers subject to the jurisdiction of the Secretary of Transportation under section 31502(c) of this title.

(b) APPLICATION.—This chapter only applies in carrying out sections 20302(a)(1)(B) and (C), (2), and (3), (c), and (d)(1) and 20303 and chapters 205 (except section 20504(b)), 211, 213 (in carrying out those sections and chapters), and 315 of this title.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2431; Pub. L. 98-216, § 2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 102-548, § 2(c), Oct. 28, 1992, 106 Stat. 3648; Pub. L. 103-272, §§ 4(j)(11)(A), 5(m)(9), July 5, 1994, 108 Stat. 1368, 1376.)

HISTORICAL AND REVISION NOTES
PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
501(a)	(no source).	Apr. 14, 1910, ch. 160, § 6, 36 Stat. 299.
501(b)	45:15.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(g); added Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919.
	49:26(g).	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.
	49:1655(f)(2).	

In the chapter, the source provisions are those in effect on March 31, 1967, the day before the effective date of the Department of Transportation Act (Pub. L. 89-670, 80 Stat. 931), because 49:1655(f)(2) gave the Secretary of Transportation the same powers enumerated in 49:1655(f)(2) that the Interstate Commerce Commis-

sion had before certain duties and powers under 49:1655(e) were transferred on April 1, 1967, from the Commission to the Secretary. All references to brokers in the source provisions are omitted as not being applicable to the duties and powers transferred to the Secretary of Transportation.

Subsection (a) is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the definitions are found in the revision notes for sections 3101, 3102(c), and 10102 of the revised title.

In subsection (b), the provisions of law to which the chapter applies are only certain laws listed in 49:1655(e). Those laws include the source provisions restated in chapter 31 of the revised title and 45:4, 5, 6 (in carrying out 45:4 and 5), 11, 12, 13 (proviso), 13 (less proviso in carrying out 45:11, 12, and 13 (proviso)), and 61-64b, and 49:26(a)-(f) (words before last semicolon) and (h). The administrative powers of the Secretary under the chapter are based on the administrative powers of 49:1655(f)(2). That provision lists administrative powers the Commission had under the Interstate Commerce Act (ch. 104, 24 Stat. 379) to carry out the Act, and certain other laws authorized the Commission to use its powers under the Act to carry out those other laws. The administrative powers listed in 49:1655(f)(2) and codified in the chapter therefore apply only to a law listed in 49:1655(e) that was a part of the Interstate Commerce Act or to which the powers of the Commission under the Act were applied. The text of 45:61-64b is included because section 4 of the Act of March 4, 1907 (ch. 2939, 34 Stat. 1417), stated, "It shall be the duty of the Interstate Commerce Commission to execute and enforce the provisions of this Act, and all powers granted to the Interstate Commerce Commission are hereby extended to it in the execution of this Act". The transfer to the Secretary was executed on March 31, 1967. The Act of March 4, 1907, was restated by the Act of December 26, 1969 (Pub. L. 91-169, 83 Stat. 463); section 4 was not included in the restatement. However, repeal by implication is not favored and the transfer was completed on March 31, 1967. Therefore, the text of 45:61-64b is included within the scope of the chapter. The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

PUB. L. 103-272

Section 4(j)(11) makes conforming amendments to 49:ch. 5 to reflect the restatement of 49:508 and related provisions in chapter 59 of the revised title.

AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103-272, §5(m)(9)(A), substituted "section 31501" for "section 3101".

Subsec. (a)(3). Pub. L. 103-272, §5(m)(9)(B), substituted "section 31502(c)" for "section 3102(c)".

Subsec. (a)(4) to (9). Pub. L. 103-272, §4(j)(11)(A), struck out pars. (4) to (9) which defined "beneficial owner", "carrier", "container", "initial carrier", "intermodal transportation", and "trailer", respectively.

Subsec. (b). Pub. L. 103-272, §5(m)(9)(C), added subsec. (b) and struck out former subsec. (b) which read as follows: "This chapter only applies in carrying out—

"(1) chapter 31 of this title; and

"(2) other duties and powers transferred to the Secretary under section 6(e) of the Department of Transportation Act (49 App. U.S.C. 1655(e)) and vested in the Interstate Commerce Commission before October 15, 1966."

1992—Subsec. (a)(4) to (9). Pub. L. 102-548 added pars. (4) to (9).

1984—Subsec. (b)(2). Pub. L. 98-216 substituted "49 App. U.S.C." for "49 U.S.C."

SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102-548 provided that: "This Act [enacting section 508 of this title, amending this section and section 521 of this title, and enacting provi-

sions set out as notes under section 508 of this title] may be cited as the 'Intermodal Safe Container Transportation Act of 1992'."

§ 502. General authority

(a) The Secretary of Transportation shall carry out this chapter.

(b) The Secretary may—

(1) inquire into and report on the management of the business of rail carriers and motor carriers;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers to the extent that the business of the person is related to the management of the business of that carrier; and

(3) obtain from those carriers and persons information the Secretary determines to be necessary.

(c) In carrying out this chapter as it applies to motor carriers, motor carriers of migrant workers, and motor private carriers, the Secretary may—

(1) confer and hold joint hearings with State authorities;

(2) cooperate with and use the services, records, and facilities of State authorities; and

(3) make cooperative agreements with a State to enforce the safety laws and regulations of a State and the United States related to highway transportation.

(d) The Secretary may subpoena witnesses and records related to a proceeding or investigation under this chapter from a place in the United States to the designated place of the proceeding or investigation. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding or investigation before the Secretary, may petition the district court for the judicial district in which the proceeding or investigation is conducted to enforce the subpoena. The court may punish a refusal to obey an order of the court to comply with a subpoena as a contempt of court.

(e)(1) In a proceeding or investigation, the Secretary may take testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding or investigation pending before the Secretary may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding or investigation is at issue on petition and answer. If a witness fails to be deposed or to produce records under this subsection, the Secretary may subpoena the witness to take a deposition, produce the records, or both.

(2) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding or investigation.

(3) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of

record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(5) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. The deposition shall be filed with the Secretary promptly.

(f) Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2431; Pub. L. 103-272, § 4(j)(12), July 5, 1994, 108 Stat. 1368.)

HISTORICAL AND REVISION NOTES
PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
502	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.
502(c)-(f)	49:304(a)(3) (last sentence) (related to "Sec. 305"). 49:304(a)(3a) (last sentence) (related to "Sec. 305").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 205"); added Aug. 9, 1935, ch. 498, 49 Stat. 546. Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 205"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 502	49 U.S. Code	Revised Section
(a), (b)	12(1)(a) (1st sentence, 2d sentence, and last sentence words before 1st semicolon).	10321
	304(a) (matter before (1)), (6), (7) (less words after semicolon).	10321
(c)	305(f).	11502
(d)	12(1)(a) (last sentence words after last semicolon), (2), (3).	10321
	305(d) (related to Commission subpena power).	10321
(e)(1)-(3)	12(4).	10321
	305(d) (related to depositions taken by Commission).	10321
(e)(4) and (5)	12(5), (6).	10321
	305(d) (related to depositions taken by Commission).	10321
(f)	12(7).	10321
	18(1) (last sentence).	10321
	305(d) (related to depositions taken by Commission).	10321

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The text of 49:305(a)-(c), (e), and (g)-(j) is not included for motor carriers of migrant workers and motor pri-

vate carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In subsection (b), the text of 49:12(1)(a) (2d sentence words after semicolon) is omitted as unnecessary because the Secretary of Transportation already has authority under chapter 3 of the revised title to make recommendations to Congress.

In subsections (c)-(f), the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

In subsection (c), the words "economic and" are omitted as not being transferred to the Secretary. The text of 49:305(f) (last sentence) is omitted as not applicable to this chapter.

In subsection (d), the reference to joint boards in 49:305(d) is omitted as not applicable to this chapter because 49:305(a) (establishing joint boards) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

PUB. L. 103-272

Section 4(j)(12) amends 49:502(e)(2) and 10321(d)(3) to reflect the change in the name of United States magistrates to United States magistrate judges made by section 321 of the Judicial Improvements Act of 1990 (Public Law 101-650, 104 Stat. 5117).

AMENDMENTS

1994—Subsec. (e)(2). Pub. L. 103-272 inserted "judge" after "United States magistrate".

§ 503. Service of notice and process on certain motor carriers of migrant workers and on motor private carriers

(a) Each motor carrier of migrant workers (except a motor contract carrier) and each motor private carrier shall designate an agent by name and post office address on whom service of notices in a proceeding before, and actions of, the Secretary of Transportation may be made. The designation shall be in writing and filed with the Secretary. The carrier also shall file the designation with the authority of each State in which it operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. The designation may be changed at any time in the same manner as originally made.

(b) A notice of the Secretary to a carrier under this section is served personally or by mail on that carrier or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If the carrier does not have a designated agent, service may be made by posting a copy of the notice in the office of the secretary or clerk of the authority having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of the State in which the carrier maintains headquarters and with the Secretary.

(c) Each of those carriers, including such a carrier operating in the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier. The designation shall be in writing and filed with the Secretary and with the authority of each State in which

the carrier operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. If a designation under this subsection is not made, service may be made on any agent of the carrier in that State. The designation may be changed at any time in the same manner as originally made.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2432.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
503	49:304(a)(3) (last sentence) (related to "Sec. 321").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 221"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 321").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 221"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(e)(6)(D) (related to "Sec. 321(a), (c)").	Oct. 15, 1966, Pub. L. 89-670, §6(e)(6)(D) (related to "Sec. 221(a), (c)"), 80 Stat. 940.

The section is included because 49:1655(e)(6)(D) transferred to the Secretary of Transportation all functions, powers, and duties of the Interstate Commerce Commission under 49:321(a) and (c) to the extent those subsections relate to motor carriers of migrant workers and motor private carriers. The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 503	49 U.S. Code	Revised Section
(a), (b)	321(a).	10329
(c)	321(c).	10330

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In the section, the words "motor carriers" are omitted because 49:1655(e)(6)(D) applies 49:321(a) and (c) only to motor carriers of migrant workers, other than motor contract carriers, and to motor private carriers, and 49:1655(f)(2)(B)(ii) contains no reference to 49:321. The text of 49:321(b) and (d) is not included because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(e)(6)(D).

In subsection (b), the text of 49:321(a) (less 1st-5th sentences) is omitted as not applicable to this chapter.

§ 504. Reports and records

(a) In this section—

(1) "association" means an organization maintained by or in the interest of a group of rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers that performs a service, or engages in activities, related to transportation of that carrier.

(2) "carrier" means a motor carrier, motor carrier of migrant workers, motor private carrier, and rail carrier.

(3) "lessor" means a person owning a railroad that is leased to and operated by a rail carrier, and a person leasing a right to operate as a motor carrier, motor carrier of migrant workers, or motor private carrier to another.

(4) "lessor" and "carrier" include a receiver or trustee of that lessor or carrier, respectively.

(b)(1) The Secretary of Transportation may prescribe the form of records required to be prepared or compiled under this section by—

(A) carriers and lessors; and

(B) a person furnishing cars or protective service against heat or cold to or for a rail carrier.

(2) The Secretary may require—

(A) carriers, lessors, associations, or classes of them as the Secretary may prescribe, to file annual, periodic, and special reports with the Secretary containing answers to questions asked by the Secretary; and

(B) a person furnishing cars or protective service against heat or cold to a rail carrier to file reports with the Secretary containing answers to questions about those cars or service.

(c) The Secretary, or an employee designated by the Secretary, may on demand and display of proper credentials—

(1) inspect the equipment of a carrier or lessor; and

(2) inspect and copy any record of—

(A) a carrier, lessor, or association;

(B) a person controlling, controlled by, or under common control with a carrier, if the Secretary considers inspection relevant to that person's relation to, or transaction with, that carrier; and

(C) a person furnishing cars or protective service against heat or cold to or for a rail carrier if the Secretary prescribed the form of that record.

(d) The Secretary may prescribe the time period during which records must be preserved by a carrier, lessor, and person furnishing cars or protective service.

(e)(1) An annual report shall contain an account, in as much detail as the Secretary may require, of the affairs of a carrier, lessor, or association for the 12-month period ending on the 31st day of December of each year. The annual report shall be filed with the Secretary by the end of the 3d month after the end of the year for which the report is made unless the Secretary extends the filing date or changes the period covered by the report.

(2) The annual report and, if the Secretary requires, any other report made under this section shall be made under oath.

(f) No part of a report of an accident occurring in operations of a motor carrier, motor carrier of migrant workers, or motor private carrier and required by the Secretary, and no part of a report of an investigation of the accident made by the Secretary, may be admitted into evidence or used in a civil action for damages related to a matter mentioned in the report or investigation.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2433.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
504	49:304(a)(3) (last sentence) (related to "Sec. 320(a) (1st, 2d sentences), (b)-(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 220(a) (1st, 2d sentences), (b)-(g)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
504(f)	49:304(a)(3a) (last sentence) (related to "Sec. 320(a) (1st, 2d sentences), (b)-(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 220(a) (1st, 2d sentences), (b)-(g)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
	49:320(f).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §220(f); added Sept. 18, 1940, ch. 722, §24, 54 Stat. 926.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 504	49 U.S. Code	Revised Section
(a)(1), (3), and (4).	20(8).	3501, 11141, 11141
(a)(2)	320(e). (no source).	
(b)(1)	20(5) (1st sentence), (6) (2d sentence, 1st cl.), (7)(b) (proviso).	11144
(b)(2)	320(d) (1st sentence).	11144
	20(1) (1st sentence less manner and form of reports), (6) (2d sentence, 2d cl.).	11145
(c)	320(a) (1st sentence).	11145
	20(5) (less 1st sentence), (6) (less 2d sentence).	11144
(d)	320(d) (3d and 4th sentences).	11144
	20(7)(b) (proviso).	11144
(e)	320(d) (less 1st, 3d, and 4th sentences).	11144
	20(1) (1st sentence related to manner and form of reports).	11145
	320(a) (2d sentence), (b).	11145

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The provisions of 49:320(c) are not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In the section, the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The text of 49:320(b) (related to 13-period accounting year) and (g) is not included because it was enacted after the effective date of the transfer authority under 49:1655.

In subsection (a), references to "water line" and "pipe line" are omitted as not applicable to this chapter. Clause (2) is added to provide a simple phrase to refer to all types of carriers to which the section applies.

In subsection (f), the words "the course of the" are omitted as surplus. The words "civil action" are substituted for "suit or action" because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 505, 521, 522, 523, 11348 of this title.

§ 505. Arrangements and public records

(a) The Secretary of Transportation may require a motor carrier, motor carrier of migrant workers, or motor private carrier to file a copy

of each arrangement related to a matter under this chapter that it has with another person. The Secretary may disclose the existence or contents of an arrangement between a motor contract carrier and a shipper filed under this section only if the disclosure is consistent with the public interest and is made as part of the record in a formal proceeding.

(b) Except as provided in subsection (a) of this section, all arrangements and statistics, tables, and figures contained in reports filed with the Secretary by a motor carrier under this chapter are public records. Such a public record, or a copy or extract of it, certified by the Secretary under seal is competent evidence in a proceeding of the Secretary, and, except as provided in section 504(f) of this title, in a judicial proceeding.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2434.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
505	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
505(a)	49:304(a)(3) (last sentence) (related to "Sec. 320(a) (less 1st, 2d sentences)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 220(a) (less 1st, 2d sentences)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
		Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 220(a) (less 1st, 2d sentences)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 505	49 U.S. Code	Revised Section
(a)	320(a) (less 1st, 2d sentences).	10764
(b)	16(13).	10303
	304(d) (related to administrative matters).	10303

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a), the text of 49:320(a) (proviso) is not included for motor carriers of migrant workers and motor private carriers because that provision, while included in the enumeration in 49:304(a)(3) and (3a), is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The text of 40:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The words "also" and "with it" are omitted as surplus. The words "contract, agreement, or" are omitted as covered by "arrangement". The words "carrier or" are omitted as covered by "person". The words "related to a matter under this chapter" are substituted for "in relation to any traffic affected by the provisions of this chapter" for clarity because of section 501 of the revised title.

Subsection (b) does not apply to reports made to the Secretary by a rail carrier because 49:16(13) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

The subsection does not apply to motor carriers of migrant workers and motor private carriers because 49:304(d) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:304(d) to motor carriers of migrant workers and motor private carriers. References to schedules, classifications, and tariffs are omitted as not applicable to this chapter. The words “Except as provided in subsection (a) of this section” are added for clarity. The words “except as provided in section 504(f) of this title” are added for clarity and consistency because of the restatement of the chapter.

§ 506. Authority to investigate

(a) The Secretary of Transportation may begin an investigation under this chapter on the initiative of the Secretary or on complaint. If the Secretary finds that a rail carrier, motor carrier, motor carrier of migrant workers, or motor private carrier is violating this chapter, the Secretary shall take appropriate action to compel compliance with this chapter. The Secretary may take action only after giving the carrier notice of the investigation and an opportunity for a proceeding.

(b) A person, including a governmental authority, may file with the Secretary a complaint about a violation of this chapter by a carrier referred to in subsection (a) of this section. The complaint must state the facts that are the subject of the violation. The Secretary may dismiss a complaint the Secretary determines does not state reasonable grounds for investigation and action. However, the Secretary may not dismiss a complaint made against a rail carrier because of the absence of direct damage to the complainant.

(c) The Secretary shall make a written report of each proceeding involving a rail carrier or motor carrier conducted and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Secretary. The Secretary may have the reports published for public use. A published report of the Secretary is competent evidence of its contents.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2434.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
506	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.
506(a), (b) ...	49:304(a)(3) (last sentence) (related to “Sec. 304(c)”).	Feb. 4, 1887, ch. 104, 24 Stat. 379. § 204(a)(3) (last sentence) (related to “Sec. 204(c)”); added Aug. 9, 1935, ch. 498, 49 Stat. 546; Sept. 18, 1940, ch. 722, § 20(b)(4), 54 Stat. 922.
	49:304(a)(3a) (last sentence) (related to “Sec. 304(c)”).	Feb. 4, 1887, ch. 104, 24 Stat. 379. § 204(a)(3a) (last sentence) (related to “Sec. 204(c)”); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 506	49 U.S. Code	Revised Section
(a)	13(1) (1st sentence less words before semicolon, last sentence), (2) (1st, 2d sentences).	11701
	304(c) (1st sentence words after 5th comma, 2d sentence).	11701
(b)	13(1) (1st sentence words before semicolon).	11701
	13(2) (less 1st, 2d sentences).	11701
	304(c) (less 1st sentence words after 5th comma, 2d sentence).	11701
(c)	14.	10310
	304(d) (related to reports).	10310

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsections (a) and (b), the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

Subsection (a) is patterned after 49:304(c). The words “violating this chapter” are substituted for “failed to comply with any such provision or requirement” for clarity.

In subsection (b), the text of 49:13(2) (last sentence) is omitted because 49:13(3) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The words “referred to in subsection (a) of this section” are added for clarity.

Subsection (c) does not apply to motor carriers of migrant workers and motor private carriers because 49:304(d) applies only to motor carriers and 49:304(a)(3) and (3a) do not apply 49:304(d) to motor carriers of migrant workers and motor private carriers. The word “proceeding” is substituted for “investigation” for clarity and to conform to other sections of the revised title. The word “findings” is added for clarity. The word “decision” is omitted as covered by “conclusions”. The words “or requirement” are omitted as covered by “order”. The words “in the premises” are omitted as surplus. The words “and in case damages are awarded, such report shall include the findings of fact on which the award is made” are omitted as not applicable to this chapter. The words “entered of record”, “and decisions in such form and manner as may be best adapted for public information and use”, and “in all courts of the United States and of the several States without any further proof or authentication thereof” are omitted as surplus. The text of 49:14(3) (last sentence) is omitted as unnecessary.

§ 507. Enforcement

(a) The Secretary of Transportation may bring a civil action to enforce—

- (1) an order of the Secretary under this chapter when violated by a rail carrier; and
- (2) this chapter or a regulation or order of the Secretary under this chapter when violated by a motor carrier, motor carrier of migrant workers, motor private carrier, or freight forwarder.

(b) The Attorney General may, and on request of the Secretary shall, bring court proceedings to enforce this chapter or a regulation or order of the Secretary under this chapter and to prosecute a person violating this chapter or a regulation or order of the Secretary.

(c) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title, or an order or regulation issued under any of those provisions. Such district

court shall have jurisdiction to determine any such action and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(d) A person injured because a rail carrier or freight forwarder does not obey an order of the Secretary under this chapter may bring a civil action to enforce that order under this subsection.

(e) In a civil action brought under subsection (a)(2) of this section against a motor carrier, motor carrier of migrant workers, or motor private carrier—

(1) trial is in the judicial district in which the carrier operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is brought; and

(3) a person participating with the carrier in a violation may be joined in the civil action without regard to the residence of the person.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2435; Pub. L. 98-554, title II, §213(a), Oct. 30, 1984, 98 Stat. 2841; Pub. L. 103-272, §5(m)(10), July 5, 1994, 108 Stat. 1376.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
507	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
507(a), (d) ...	49:304(a)(3) (last sentence) (related to "Sec. 322(b)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(b)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 322(b)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(b)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 507	49 U.S. Code	Revised Section
(a)	16(12) (related to Commission action). 322(b)(1) (less 1st sentence last 18 words, 2d sentence, last sentence). 1017(b)(1) (related to Commission action).	11702 11702 11702
(b)	12(1)(a) (last sentence less words before 1st semicolon and after last semicolon).	11703
	16(12) (related to action by the Attorney General).	11703
	20(9).	11703
(c)	16(12) (related to action by private person).	11705
	1017(b)(1) (related to action by the Attorney General).	11703
(d)	322(b)(1) (1st sentence last 18 words, 2d sentence, last sentence).	11702
	1017(b)(1) (related to action by private person).	11705

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In the section, the text of 49:322(b)(2) and (3) is not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In subsections (a) and (d), the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

In subsection (a), the words "or of any term or condition of any certificate or permit" are omitted as not applicable to this chapter.

In subsection (a)(1), reference to a civil action to enforce an order for the payment of money is omitted as not applicable to this chapter.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-272 substituted "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984" and "any of those provisions" for "such section or Act".

1984—Subsecs. (c) to (e). Pub. L. 98-554 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

[§ 508. Repealed. Pub. L. 103-272, §4(j)(11)(B), July 5, 1994, 108 Stat. 1368]

Section, added Pub. L. 102-548, §2(a), Oct. 28, 1992, 106 Stat. 3646, related to certification of weights and description. See chapter 59 of this title.

REGULATIONS

Section 2(d) of Pub. L. 102-548, which directed Secretary of Transportation to initiate a proceeding to issue regulations and exemptions thereto to enforce this section within 180 days after Oct. 28, 1992, and to issue final regulations within 270 days after that date, was repealed and reenacted as section 5907(a) of this title by Pub. L. 103-272, §§1(d), 7(b), July 5, 1994, 108 Stat. 862, 1379.

SUBCHAPTER II—PENALTIES

§ 521. Civil penalties

(a)(1) A person required under section 504 of this title to make, prepare, preserve, or submit to the Secretary of Transportation a record about rail carrier transportation, that does not make, prepare, preserve, or submit that record as required under that section, is liable to the United States Government for a civil penalty of \$500 for each violation.

(2) A rail carrier, and a lessor, receiver, or trustee of that carrier, violating section 504(c)(1) of this title, is liable to the Government for a civil penalty of \$100 for each violation.

(3) A rail carrier, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective service against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Secretary or answer a question, that does not make a report to the Secretary or does not specifically, completely, and truthfully answer the question, is liable to the Government for a civil penalty of \$100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(5) Trial in a civil action under this subsection is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

(b)(1)(A) If the Secretary finds that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a violation of a regulation issued under any of those provisions, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(B) The Secretary shall, not later than 60 days after the date of enactment of this subparagraph, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2)(A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall—

(i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and

(ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious.

(2) CIVIL PENALTY.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of a recordkeeping requirement issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title or which is a violation of chapter 59 of this title shall be liable to the United States for a civil penalty not to exceed \$500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single violation shall not exceed \$2,500. If the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, the Secretary may assess a civil penalty not to exceed \$1,000 for each offense; except that the maximum fine for each such pattern of safety violations shall not exceed \$10,000. If the Secretary determines that a

substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (other than subparagraph (B)), except for recordkeeping violations, no civil penalty shall be assessed under this section against an employee for a violation unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed \$1,000.

(B) VIOLATIONS PERTAINING TO CDLS.—Any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title shall be liable to the United States for a civil penalty not to exceed \$2,500 for each offense.

(C) DETERMINATION OF AMOUNT.—The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title, as the case may be.

(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

(5)(A) If, upon inspection or investigation, the Secretary determines that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title or a regulation issued under any of those provisions, or combination of such violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

(B) In this paragraph, "imminent hazard" means any condition of vehicle, employee, or

commercial motor vehicle operations which is likely to result in serious injury or death if not discontinued immediately.

(6) CRIMINAL PENALTIES.—

(A) IN GENERAL.—Any person who knowingly and willfully violates any provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title, or a regulation issued under any of those provisions shall, upon conviction, be subject for each offense to a fine not to exceed \$25,000 or imprisonment for a term not to exceed one year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be subject, upon conviction, to a fine not to exceed \$2,500.

(B) VIOLATIONS PERTAINING TO CDLS.—Any person who knowingly and willfully violates—

(i) any provision of section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title or a regulation issued under such section, or

(ii) with respect to notification of a serious traffic violation as defined under section 31301 of this title, any provision of section 31303(a) of this title or a regulation issued under section 31303(a),

shall, upon conviction, be subject for each offense to a fine not to exceed \$5,000 or imprisonment for a term not to exceed 90 days, or both.

(7) The Secretary shall issue regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and orders under this subsection.

(8) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States Court of Appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(9) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund (other than the Mass Transit Account).

(10) In any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

(11) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by

the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(12) The provisions of this subsection shall not affect chapter 51 of this title or any regulation promulgated by the Secretary under chapter 51.

(13) As used in this subsection, the terms "commercial motor vehicle", "employee", "employer", and "State" have the meaning such terms have under section 31132 of this title.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2435; Pub. L. 98-554, title II, §213(b), Oct. 30, 1984, 98 Stat. 2842; Pub. L. 99-570, title XII, §12012, Oct. 27, 1986, 100 Stat. 3207-184; Pub. L. 101-500, §15(e)(2), Nov. 3, 1990, 104 Stat. 1220; Pub. L. 102-548, §2(b), Oct. 28, 1992, 106 Stat. 3648; Pub. L. 103-272, §§4(j)(11)(D), 5(m)(11), July 5, 1994, 108 Stat. 1368, 1376.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
521	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

<i>Section 521</i>	<i>49 U.S. Code</i>	<i>Revised Section</i>
(a)	20(7)(a), (c)-(e).	11901
(b)	322(h).	11901

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a)(3), the words "against heat and cold" are inserted for consistency with sections 11105 and 11901 of the revised title.

Subsection (b) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(h) (1st sentence) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(h) (1st sentence) to motor carriers of migrant workers and motor private carriers. The reference to 49:303(c), 306(a)(1), and 309(a)(1) is omitted as not applicable to this chapter.

REFERENCES IN TEXT

The date of enactment of this subparagraph, referred to in subsec. (b)(1)(B), means the date of enactment of Pub. L. 101-500, which was approved Nov. 3, 1990.

The Federal Rules of Criminal Procedure, referred to in subsec. (b)(11), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1994—Subsec. (b)(1)(A). Pub. L. 103-272, §5(m)(11)(A), substituted "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and "any of those provisions" for "such sections or Act".

Subsec. (b)(2)(A). Pub. L. 103-272, §5(m)(11)(B), substituted “under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title” for “pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984”.

Pub. L. 103-272, §4(j)(11)(D), substituted “chapter 59 of this title” for “section 508 of this title”.

Subsec. (b)(2)(B). Pub. L. 103-272, §5(m)(11)(C), substituted “section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title” for “section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986”.

Subsec. (b)(3). Pub. L. 103-272, §5(m)(11)(D), substituted “subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title” for “section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986”.

Subsec. (b)(5)(A). Pub. L. 103-272, §5(m)(11)(E), substituted “a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title” for “section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986” and “any of those provisions” for “such sections or Act”.

Subsec. (b)(6)(A). Pub. L. 103-272, §5(m)(11)(F), substituted “subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title” for “section 3102 of this title, the Motor Carrier Safety Act of 1984”, “any of those provisions” for “such section or Act”, and “shall be subject” for “shall be liable”.

Subsec. (b)(6)(B)(i). Pub. L. 103-272, §5(m)(11)(G), substituted “section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title” for “section 12002, 12003(b), 12003(c), 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986”.

Subsec. (b)(6)(B)(ii). Pub. L. 103-272, §5(m)(11)(H), substituted “section 31301 of this title” for “section 12019 of such Act”, “section 31303(a) of this title” for “section 12003(a) of such Act”, and “section 31303(a)” for “such section 12003(a)”.

Subsec. (b)(12). Pub. L. 103-272, §5(m)(11)(I), substituted “chapter 51 of this title” for “any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812)” and “chapter 51” for “such Act”.

Subsec. (b)(13). Pub. L. 103-272, §5(m)(11)(J), substituted “section 31132 of this title” for “section 204 of the Motor Carrier Safety Act of 1984”.

1992—Subsec. (b)(2)(A). Pub. L. 102-548 inserted “or which is a violation of section 508 of this title” after “Act of 1984”.

1990—Subsec. (b)(1). Pub. L. 101-500 designated existing provisions as subpar. (A) and added subpar. (B).

1986—Subsec. (b)(1). Pub. L. 99-570, §12012(a), inserted “or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986” after “the Motor Carrier Safety Act of 1984” and substituted “such sections” for “such section”.

Subsec. (b)(2). Pub. L. 99-570, §12012(b), (f)(1), inserted heading, designated existing provisions as subpars. (A) and (C) with corresponding headings, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and inserted exception relating to subpar. (B).

Subsec. (b)(3). Pub. L. 99-570, §12012(c), inserted “or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986” after “the Motor Carrier Safety Act of 1984”.

Subsec. (b)(5)(A). Pub. L. 99-570, §12012(d), inserted “or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986” after “the Motor Carrier Safety Act of 1984” and substituted “such sections” for “such section”.

Subsec. (b)(6). Pub. L. 99-570, §12012(e), (f)(2), (g)(1), inserted heading, designated existing provisions as subpar. (A) with corresponding heading, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and substituted “to a fine” for “for a fine” in two places.

Subsec. (b)(13). Pub. L. 99-570, §12012(g)(2), substituted “section 204” for “section 4”.

1984—Subsec. (b)(1). Pub. L. 98-554 substituted provisions relating to notice to violators and opportunity for hearings for former provisions which set forth penalties for failure to make reports and keep records.

Subsec. (b)(2). Pub. L. 98-554 substituted provisions setting forth amount of civil penalties for former provisions which related to the place of trial and manner of service of process for violations of recordkeeping and reporting provisions.

Subsec. (b)(3) to (13). Pub. L. 98-554 added pars. (3) to (13).

REPORT; PENALTIES; EFFECTIVENESS

Section 213(d) of Pub. L. 98-554 directed Secretary of Transportation to conduct a study of effectiveness of civil and criminal penalties established by amendments made by section 213 of Pub. L. 98-554 in deterring violations of commercial motor vehicle safety regulations issued under title II of Pub. L. 98-554 and in effectively prosecuting such violations when they occur, which study was to examine the effectiveness of penalties in effect before Oct. 30, 1984, in comparison to the penalties established by the amendments made by title II of Pub. L. 98-554, and was to further investigate the need for, and make recommendations concerning, increased fine levels for civil and criminal penalties, and the need for additional categories of civil and criminal penalties to deter further, and prosecute effectively, violations of such commercial motor vehicle safety regulations, and further directed Secretary to submit to Congress a report on the findings of this study, together with legislative recommendations, not later than 2 years after Oct. 30, 1984.

§ 522. Reporting and record keeping violations

(a) A person required to make a report to the Secretary of Transportation, or make, prepare, or preserve a record, under section 504 of this title about transportation by rail carrier, that knowingly and willfully (1) makes a false entry in the report or record, (2) destroys, mutilates, changes, or by another means falsifies the record, (3) does not enter business related facts and transactions in the record, (4) makes, prepares, or preserves the record in violation of a regulation or order of the Secretary, or (5) files a false report or record with the Secretary, shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

(b) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Secretary, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be fined not more than \$5,000.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2436.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
522	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
522(b)	49:304(a)(3) (last sentence) (related to "Sec. 322(g)"). 49:304(a)(3a) (last sentence) (related to "Sec. 322(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(g)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546. Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(g)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 522	49 U.S. Code	Revised Section
(a)	20(7)(b) (less proviso).	11909
(b)	322(g).	11909

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

§ 523. Unlawful disclosure of information

(a) A motor carrier, or an officer, receiver, trustee, lessee, or employee of that carrier, or another person authorized by that carrier to receive information from that carrier, may not knowingly disclose to another person (except the shipper or consignee), and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(b) This chapter does not prevent a motor carrier, motor carrier of migrant workers, or motor private carrier from giving information—

- (1) in response to legal process issued under authority of a court of the United States or a State;
- (2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; and
- (3) to another motor carrier, motor carrier of migrant workers, or motor private carrier, or its agent, to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Secretary of Transportation delegated to make an inspection under section 504 of this title who knowingly discloses

information acquired during that inspection, except as directed by the Secretary, a court, or a judge of that court, shall be fined not more than \$500, imprisoned for not more than 6 months, or both.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2436.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
523	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
523(b)	49:304(a)(3) (last sentence) (related to "Sec. 322(f)"). 49:304(a)(3a) (last sentence) (related to "Sec. 322(f)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(d), (f)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546. Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(d), (f)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
523(c)	49:304(a)(3) (last sentence) (related to "Sec. 322(d)"). 49:304(a)(3a) (last sentence) (related to "Sec. 322(d)").	

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 523	49 U.S. Code	Revised Section
(a)	322(e).	11910
(b)	322(f).	11910
(c)	20(7)(f). 322(d).	11910 11910

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

Subsection (a) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(e) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(e) to motor carriers of migrant workers and motor private carriers. The words "engaged in interstate or foreign commerce" are omitted as unnecessary because of the restatement of the chapter.

In subsections (b) and (c), the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

§ 524. Evasion of regulation of motor carriers

A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade regulation of motor carriers under this chapter shall be fined at least \$200 but not more than \$500 for the first violation and at least \$250 but not more than \$2,000 for a subsequent violation.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2437.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
524	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 524	49 U.S. Code	Revised Section
	322(c) (related to evasion of regulation).	11906

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The section does not apply to motor carriers of migrant workers and motor private carriers because 49:322(c) (related to evasion of regulation) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(c) (related to evasion of regulation) to motor carriers of migrant workers and motor private carriers.

§ 525. Disobedience to subpoenas

A motor carrier, motor carrier of migrant workers, or motor private carrier not obeying a subpoena or requirement of the Secretary of Transportation under this chapter to appear and testify or produce records shall be fined at least \$100 but not more than \$5,000, imprisoned for not more than one year, or both.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2437.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
525	49:304(a)(3) (last sentence) (related to "Sec. 305(d) (related to liability)"); 49:304(a)(3a) (last sentence) (related to "Sec. 305(d) (related to liability)"); 49:1655(f)(2).	Feb. 4, 1887, ch. 104, 24 Stat., 379, §204(a)(3) (last sentence) (related to "Sec. 205(d) (related to liability)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546. Feb. 4, 1887, ch. 104, 24 Stat., 379, §204(a)(3a) (last sentence) (related to "Sec. 205(d) (related to liability)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958. Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 525	49 U.S. Code	Revised Section
	305(d) (related to liability).	11913

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The section does not apply to the liability of a rail carrier because 49:46 is not included in the specific enu-

meration of 49:1655(f)(2)(B)(ii). The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The words "under this chapter" are added for clarity.

§ 526. General criminal penalty when specific penalty not provided

When another criminal penalty is not provided under a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions, related to transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, shall be fined at least \$100 but not more than \$500 for the first violation and at least \$200 but not more than \$500 for a subsequent violation. A separate violation occurs each day the violation continues.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2437; Pub. L. 98-554, title II, §213(c), Oct. 30, 1984, 98 Stat. 2844; Pub. L. 103-272, §5(m)(12), July 5, 1994, 108 Stat. 1377.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
526	49:304(a)(3) (last sentence) (related to "Sec. 322(a)"); 49:304(a)(3a) (last sentence) (related to "Sec. 322(a)"); 49:1655(f)(2).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(a)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546. Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(a)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958. Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 526	49 U.S. Code	Revised Section
	322(a).	11914

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The reference to a certificate, permit, or licence is omitted as not applicable to this chapter. The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

AMENDMENTS

1994—Pub. L. 103-272 substituted "a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions" for "this chapter, section 3102 of this title, or the Motor Carrier Safety Act of 1984, a person that knowingly and will-

fully violates a provision of this chapter or such section or Act, or a regulation or order of the Secretary of Transportation under this chapter or such section or Act”.

1984—Pub. L. 98-554 inserted “, section 3102 of this title, or the Motor Carrier Safety Act of 1984” after “chapter” the first place it appears and inserted “or such section or Act” after “chapter” the second and third places it appears.

SUBTITLE II—OTHER GOVERNMENT AGENCIES

Chapter 11. National Transportation Safety Board 1101

CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

SUBCHAPTER I—GENERAL

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SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE
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1112. Special boards of inquiry on air transportation safety.
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SUBCHAPTER III—AUTHORITY

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SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

1151. Aviation enforcement.
1152. Joinder and intervention in aviation proceedings.
1153. Judicial review.
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AMENDMENTS

1994—Pub. L. 103-272, §1(c), (d), July 5, 1994, 108 Stat. 745, added subtitle II (comprised of chapter 11, §§1101-1155) and struck out former subtitle II, except that chapter 31 (comprised of §§3101-3104) of subtitle II was redesignated and restated as chapter 315 (comprised of §§31501-31504) of subtitle VI, as enacted by Pub. L. 103-272, §1(e).

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 329 of this title.

SUBCHAPTER I—GENERAL

§ 1101. Definitions

Section 40102(a) of this title applies to this chapter.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 746.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1101 shows (no source).

A number of the source provisions of the chapter are taken from 49 App.:ch. 20. The text of 49 App.:ch. 20 contains general definitions, some of which are used in those source provisions.

This section is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the definitions are found in the revision note for section 40102(a) of the revised title.

SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE

§ 1111. General organization

(a) ORGANIZATION.—The National Transportation Safety Board is an independent establishment of the United States Government.

(b) APPOINTMENT OF MEMBERS.—The Board is composed of 5 members appointed by the President, by and with the advice and consent of the Senate. Not more than 3 members may be appointed from the same political party. At least 3 members shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

(c) TERMS OF OFFICE AND REMOVAL.—The term of office of each member is 5 years. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(d) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate, by and with the advice and consent of the Senate, a Chairman of the Board. The President also shall designate a Vice Chairman of the Board. The terms of office of both the Chairman and Vice Chairman are 2 years. When the Chairman is absent or unable to serve or when the position of Chairman is vacant, the Vice Chairman acts as Chairman.

(e) DUTIES AND POWERS OF CHAIRMAN.—The Chairman is the chief executive and administrative officer of the Board. Subject to the general policies and decisions of the Board, the Chairman shall—

- (1) appoint, supervise, and fix the pay of officers and employees necessary to carry out this chapter;
(2) distribute business among the officers, employees, and administrative units of the Board; and
(3) supervise the expenditures of the Board.

(f) QUORUM.—Three members of the Board are a quorum in carrying out duties and powers of the Board.

(g) OFFICES, BUREAUS, AND DIVISIONS.—The Board shall establish offices necessary to carry out this chapter, including an office to investigate and report on the safe transportation of hazardous material. The Board shall establish distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation: