nate unnecessary words and because ''rule'' and ''regulation'' are synonymous. The words ''in the case of any standard, rule, or other action under this subchapter'' are omitted as surplus.

§ 33118. Preemption of State and local law

When a motor vehicle theft prevention standard prescribed under section 33102 or 33103 of this title is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1093.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33118	15:2031.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 614; added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2763; Oct. 25, 1992, Pub. L. 102–519, § 306(a), 106 Stat. 3397.

The words ''may not have'' are substituted for ''no . . . shall have any authority either to establish, or to continue in effect'' to eliminate unnecessary words.

SUBTITLE VII—AVIATION PROGRAMS

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

Chapter		Sec.
401.	**General Provisions**	**40101**

SUBPART II—ECONOMIC REGULATION

411.	**Air Carrier Certificates**	**41101**
413.	**Foreign Air Transportation**	**41301**
415.	**Pricing**	**41501**
417.	**Operations of Carriers**	**41701**
419.	**Transportation of Mail**	**41901**
421.	**Labor-Management Provisions**	**42101**

SUBPART III—SAFETY

441.	**Registration and Recordation of Aircraft**	**44101**
443.	**Insurance**	**44301**
445.	**Facilities, Personnel, and Research**	**44501**
447.	**Safety Regulation**	**44701**
449.	**Security**	**44901**
451.	**Alcohol and Controlled Substances Testing**	**45101**
453.	**Fees**	**45301**

SUBPART IV—ENFORCEMENT AND PENALTIES

461.	**Investigations and Proceedings**	**46101**
463.	**Penalties**	**46301**
465.	**Special Aircraft Jurisdiction of the United States**	**46501**

PART B—AIRPORT DEVELOPMENT AND NOISE

471.	**Airport Development**	**47101**
473.	**International Airport Facilities**	**47301**
475.	**Noise**	**47501**

PART C—FINANCING

481.	**Airport and Airway Trust Fund Authorizations**	**48101**

PART D—MISCELLANEOUS

491.	**Buy-American Preferences**	**49101**

PART A—AIR COMMERCE AND SAFETY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 329, 10102, 10561, 10749 of this title; title 14 section 82; title 15 sections 21, 45, 1607, 1681s, 1691c, 1692*l*, 1693*o*; title 26 section 9502; title 39 sections 5401, 5402; title 40 App. section 208; title 42 sections 6362, 7572.

SUBPART I—GENERAL

CHAPTER 401—GENERAL PROVISIONS

Sec.
40101. Policy.
40102. Definitions.
40103. Sovereignty and use of airspace.
40104. Promotion of civil aeronautics and air commerce.
40105. International negotiations, agreements, and obligations.
40106. Emergency powers.
40107. Presidential transfers.
40108. Training schools.
40109. Authority to exempt.
40110. General procurement authority.
40111. Multiyear procurement contracts for services and related items.
40112. Multiyear procurement contracts for property.
40113. Administrative.
40114. Reports and records.
40115. Withholding information.
40116. State taxation.
40117. Passenger facility fees.
40118. Government-financed air transportation.
40119. Security and research and development activities.
40120. Relationship to other laws.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 46301, 46316 of this title.

§ 40101. Policy

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

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

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

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

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

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

(6) placing maximum reliance on competitive market forces and on actual and potential competition—

(A) to provide the needed air transportation system; and

(B) to encourage efficient and well-managed air carriers to earn adequate profits and attract capital, considering any material differences between interstate air transportation and foreign air transportation.

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

(A) the commerce of the United States;

(B) the United States Postal Service; and

(C) the national defense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the present and future needs of shippers;

(B) the commerce of the United States; and

(C) the national defense.

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

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

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

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

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

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

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

(2) promoting, encouraging, and developing civil aeronautics.

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

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

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

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

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

(1) strengthening the competitive position of air carriers to ensure at least equality with foreign air carriers, including the attainment

of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation.

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

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

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

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

(6) integrating domestic and international air transportation.

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

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

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

(A) excessive landing and user fees;

(B) unreasonable ground handling requirements;

(C) unreasonable restrictions on operations;

(D) prohibitions against change of gauge; and

(E) similar restrictive practices.

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

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

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1094.)

HISTORICAL AND REVISION NOTES

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

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40101(d)	49 App.:1303.	Aug. 23, 1958, Pub. L. 85–726, §103, 72 Stat. 740; Nov. 18, 1988, Pub. L. 100–690, §7202(b), 102 Stat. 4424.
	49 App.:1655(c)(1).	
40101(e)	49 App.:1502(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1102(b); added Feb. 15, 1980, Pub. L. 96–192, §17, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	
40101(f)	49 App.:1302(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §102(c); added Oct. 31, 1992, Pub. L. 102–581, §205, 106 Stat. 4894.

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

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

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

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

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

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

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

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

In subsection (b)(3), the words ''unreasonable discrimination'' are substituted for ''unjust discriminations, undue preferences or advantages'' for consistency in the revised title and to eliminate unnecessary words.

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

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

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

of ''navigable airspace'' in section 40102(a) of the revised title. The words ''of those operations'' are added for clarity.

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

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

SHORT TITLE OF 1994 AMENDMENT

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

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

JOINT AVIATION RESEARCH AND DEVELOPMENT PROGRAM

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

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

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

''(2) advanced airport and airplane security;

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

''(4) advanced aviation safety programs; and

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

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

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

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

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

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

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

AIRCRAFT CABIN AIR QUALITY RESEARCH PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

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

1996, respectively, such sums as may be necessary to carry out this section.''

INFORMATION ON DISINSECTION OF AIRCRAFT

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

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

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

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

GENERAL AVIATION REVITALIZATION ACT OF 1994

Pub. L. 103–298, Aug. 17, 1994, 108 Stat. 1552, provided that:

''SECTION 1. SHORT TITLE.

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

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

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

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

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

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

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

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

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

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

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

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

''(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term 'general aviation aircraft' means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.) [see 49 U.S.C. 40101 et seq.] at the time of the accident.

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

''SEC. 3. OTHER DEFINITIONS.

''For purposes of this Act—

''(1) the term 'aircraft' has the meaning given such term in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5)) [see 49 U.S.C. 40102(a)(6)];

''(2) the term 'airworthiness certificate' means an airworthiness certificate issued under section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)) [see 49 U.S.C. 44704(c)(1)] or under any predecessor Federal statute;

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

''(4) the term 'type certificate' means a type certificate issued under section 603(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(a)) [see 49 U.S.C. 44704(a)] or under any predecessor Federal statute.

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

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

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

NATIONAL COMMISSION TO ENSURE A STRONG COMPETITIVE AIRLINE INDUSTRY

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40105, 40118, 41109, 47101 of this title; title 39 section 5402.

§ 40102. Definitions

(a) GENERAL DEFINITIONS.—In this part—

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

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

(3) ''air commerce'' means foreign air commerce, interstate air commerce, the transportation of mail by aircraft, the operation of aircraft within the limits of a Federal airway, or the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate air commerce.

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

(A) a landing area;

(B) a light;

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

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

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

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

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

(8) ''airman'' means an individual—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) paying any part of the purchase price;

(ii) performing another condition; or

(iii) the happening of a contingency; or

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

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

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

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

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

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

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

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

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

(A) between a place in—

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

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

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

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

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

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

(A) between a place in—

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

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

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

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

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

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

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

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

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

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

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

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

(A) the navigation of aircraft; and

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

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

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

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

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

(37) ''public aircraft''—

(A) means an aircraft—

(i) used only for the United States Government; or

(ii) owned and operated (except for commercial purposes), or exclusively leased for at least 90 continuous days, by a government (except the United States Government), including a State, the District of Columbia, or a territory or possession of the United States, or political subdivision of that government; but

(B) does not include a government-owned aircraft—

(i) transporting property for commercial purposes; or

(ii) transporting passengers other than—

(I) transporting (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or is associated with the performance of, a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management; or

(II) transporting (for other than commercial purposes) persons aboard the aircraft if the aircraft is operated by the Armed Forces or an intelligence agency of the United States.

An aircraft described in the preceding sentence shall, notwithstanding any limitation relating to use of the aircraft for commercial purposes, be considered to be a public aircraft for the purposes of this part without regard to whether the aircraft is operated by a unit of government on behalf of another unit of government, pursuant to a cost reimbursement agreement between such units of government, if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat.

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

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

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

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

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

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

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

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1097; Pub. L. 103–305, title VI, § 601(b)(2)(B), Aug. 23, 1994, 108 Stat. 1606; Pub. L. 103–411, § 3(a), Oct. 25, 1994, 108 Stat. 4236; Pub. L. 103–429, § 6(46), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40102(a)(1) ...	49 App.:1301(2).	Aug. 23, 1958, Pub. L. 85–726, §§ 101(2), (3) (less proviso), (5)–(10), 413, 72 Stat. 737, 770.
40102(a)(2) ...	49 App.:1301(3) (less proviso).	
40102(a)(3) ...	49 App.:1301(4).	Aug. 23, 1958, Pub. L. 85–726, § 101(4), 72 Stat. 737; Sept. 5, 1961, Pub. L. 87–197, § 3, 75 Stat. 467.
40102(a)(4) ...	49 App.:1301(8).	
40102(a)(5) ...	49 App.:1301(10).	
40102(a)(6), (7).	49 App.:1301(5), (6).	
40102(a)(8) ...	49 App.:1301(7).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40102(a)(9) ...	49 App.:1301(9).	
40102(a)(10) ..	49 App.:1301(11).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 101(11); added Nov. 9, 1977, Pub. L. 95–163, § 17(b)(2), 91 Stat. 1286; restated Oct. 4, 1984, Pub. L. 98–443, § 9(a)(1), 98 Stat. 1706.
40102(a)(11) ..	49 App.:1301(12).	Aug. 23, 1958, Pub. L. 85–726, § 101(12), (16)– (34), (37), (40), (41), 72 Stat. 737, 739; July 10, 1962, Pub. L. 87–528, § 1, 76 Stat. 143; Sept. 26, 1968, Pub. L. 90–514, § 1, 82 Stat. 867; Oct. 14, 1970, Pub. L. 91–449, § 1(2), 84 Stat. 921; Aug. 5, 1974, Pub. L. 93–366, § 206, 88 Stat. 419; Nov. 9, 1977, Pub. L. 95–163, § 17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, § 2(a)(4), (b), 92 Stat. 1705.
40102(a)(12) ..	(no source).	
40102(a)(13) ..	49 App.:1301(14) (less certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 101(14) (less certificate), (15); added Oct. 24, 1978, Pub. L. 95–504, § 2(a)(1), 92 Stat. 1705.
40102(a)(14) ..	49 App.:1301(15).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
40102(a)(15)–(18).	49 App.:1301(16)–(19).	
40102(a)(19) ..	49 App.:1301(20).	
40102(a)(20) ..	49 App.:1301(21).	
	49 App.:1655(c)(1).	
40102(a)(21) ..	49 App.:1301(22).	
40102(a)(22) ..	49 App.:1301(23) (related to foreign air commerce).	
40102(a)(23) ..	49 App.:1301(24) (related to foreign air transportation).	
40102(a)(24) ..	49 App.:1301(23) (related to interstate and overseas air commerce).	
40102(a)(25) ..	49 App.:1301(24) (related to interstate and overseas air transportation).	

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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1305(b)(2), (d) (related to (b)(2)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 105(b)(2), (d) (related to (b)(2)); added Oct. 24, 1978, Pub. L. 95–504, § 4(a), 92 Stat. 1708.
40102(a)(26)–(32).	49 App.:1301(25)–(31).	
40102(a)(33) ..	49 App.:1301(32).	
40102(a)(34) ..	49 App.:1301(35).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 101(35), (39); added Oct. 24, 1978, Pub. L. 95–504, § 2(a)(2), (3), (b), 92 Stat. 1705.
40102(a)(35) ..	(no source).	
40102(a)(36) ..	49 App.:1301(33), (34).	
40102(a)(37) ..	49 App.:1301(36).	Aug. 23, 1958, Pub. L. 85–726, § 101(36), 72 Stat. 739; Aug. 5, 1974, Pub. L. 93–366, § 206, 88 Stat. 419; Nov. 9, 1977, Pub. L. 95–163, § 17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, § 2, 92 Stat. 1705; Dec. 30, 1987, Pub. L. 100–223, § 207, 101 Stat. 1523.
40102(a)(38) ..	49 App.:1301(37).	
40102(a)(39) ..	49 App.:1301(39).	
40102(a)(40) ..	49 App.:1301(40).	
40102(a)(41) ..	49 App.:1301(41).	
40102(b)	49 App.:1383.	

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsection (a)(37)(A)(ii) is substituted for ''used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia'' and ''For purposes of this paragraph, 'used exclusively in the service of' means, for other than the Federal Government, an aircraft which is owned and operated by a governmental entity for other than commercial purposes or which is exclusively leased by such governmental entity for not less than 90 continuous days'' for clarity and to eliminate unnecessary words.

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

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

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

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

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

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

PUB. L. 103–429

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

AMENDMENTS

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

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

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

EFFECTIVE DATE OF 1994 AMENDMENTS

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

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

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

DEFINITIONS APPLICABLE TO PUB. L. 103–305

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

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 321, 1101, 1131, 5114, 47129, 47302, 47522 of this title; title 8 section 1184; title 10 sections 2640, 9511; title 11 sections 365, 1110; title 15 section 2052; title 18 sections 31, 553; title 19 sections 1627a, 1644a, 2492; title 22 section 5605; title 29 section 1301; title 31 section 3726; title 39 sections 5005, 5007, 5402; title 42 sections 4902, 7574.

§ 40103. Sovereignty and use of airspace

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

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

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

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

(A) navigating, protecting, and identifying aircraft;

(B) protecting individuals and property on the ground;

(C) using the navigable airspace efficiently; and

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

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

In subsection (b)(4), the words ''the military exception'' are substituted for ''any exception relating to military or naval functions'' to eliminate unnecessary words and because ''naval'' is included in ''military''. The words ''applies to a regulation prescribed under''

are substituted for ''In the exercise of the rulemaking authority . . . the Secretary of Transportation shall be subject to'' to eliminate unnecessary words and because ''rules'' and ''regulations'' are synonymous.

Subsection (c) is added for clarity.

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

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

REGULATIONS

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

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40106, 40109, 44101, 44502, 46301, 46307, 46316 of this title.

§ 40104. Promotion of civil aeronautics and air commerce

(a) DEVELOPING CIVIL AERONAUTICS AND AIR COMMERCE.—The Administrator of the Federal Aviation Administration shall encourage the development of civil aeronautics and air commerce in and outside the United States. In carrying out this subsection, the Administrator shall take action that the Administrator considers necessary to establish, within available resources, a program to distribute civil aviation information in each region served by the Administration. The program shall provide, on request, informational material and expertise on civil aviation to State and local school administrators, college and university officials, and officers of other interested organizations.

(b) DEVELOPING AND CONSTRUCTING CIVIL SUPERSONIC AIRCRAFT.—The Secretary of Transportation may develop and construct a civil supersonic aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1102; Pub. L. 103–429, § 6(47), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

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

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

PUB. L. 103–429, § 6(47)(A), (B)

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

PUB. L. 103–429, § 6(47)(C)

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

AMENDMENTS

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

EFFECTIVE DATE OF 1994 AMENDMENT

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

§ 40105. International negotiations, agreements, and obligations

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

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

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

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

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

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

(c) CONSULTATION ON INTERNATIONAL AIR TRANSPORTATION POLICY.—In carrying out sec-

tion 40101(e) of this title, the Secretaries of State and Transportation, to the maximum extent practicable, shall consult on broad policy goals and individual negotiations with—

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

REPORT ON CERTAIN BILATERAL NEGOTIATIONS

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

WARSAW CONVENTION

49 Stat. 3000; TS 876

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL TRANSPORTATION BY AIR

THE PRESIDENT OF THE GERMAN REICH, THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA, HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE UNITED STATES OF BRAZIL, HIS MAJESTY THE KING OF THE BULGARIANS, THE PRESIDENT OF THE NATIONALIST GOVERNMENT OF CHINA, HIS MAJESTY THE KING OF DENMARK AND ICELAND, HIS MAJESTY THE KING OF EGYPT, HIS MAJESTY THE KING OF SPAIN, THE CHIEF OF STATE OF THE REPUBLIC OF ESTONIA, THE PRESIDENT OF THE REPUBLIC OF FINLAND, THE PRESIDENT OF THE FRENCH REPUBLIC, HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND, AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, THE PRESIDENT OF THE HELLENIC REPUBLIC, HIS MOST SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY, HIS MAJESTY THE KING OF ITALY, HIS MAJESTY THE EMPEROR OF JAPAN, THE PRESIDENT OF THE REPUBLIC OF LATVIA, HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG, THE PRESIDENT OF THE UNITED MEXICAN STATES, HIS MAJESTY THE KING OF NORWAY, HER MAJESTY THE QUEEN OF THE NETHERLANDS, THE PRESIDENT OF THE REPUBLIC OF POLAND, HIS MAJESTY THE KING OF RUMANIA, HIS MAJESTY THE KING OF SWEDEN, THE SWISS FEDERAL COUNCIL, THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC, THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS, THE PRESIDENT OF THE UNITED STATES OF VENEZUELA, HIS MAJESTY THE KING OF YUGOSLAVIA:

Having recognized the advantage of regulating in a uniform manner the conditions of international transportation by air in respect of the documents used for such transportation and of the liability of the carrier,

Have nominated to this end their respective Plenipotentiaries, who being thereto duly authorized, have concluded and signed the following convention:

CHAPTER I—SCOPE—DEFINITIONS

Article 1

(1) This convention shall apply to all international transportation of persons, baggage, or goods performed by aircraft for hire. It shall apply equally to gratuitous transportation by aircraft performed by an air transportation enterprise.

(2) For the purpose of this convention the expression ''international transportation'' shall mean any transportation in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the transportation or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate

or authority of another power, even though that power is not a party to this convention. Transportation without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate, or authority of the same High Contracting Party shall not be deemed to be international for the purposes of this convention.

(3) Transportation to be performed by several successive air carriers shall be deemed, for the purposes of this convention, to be one undivided transportation, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it shall not lose its international character merely because one contract or series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate, or authority of the same High Contracting Party.

Article 2

(1) This convention shall apply to transportation performed by the state or by legal entities constituted under public law provided it falls within the conditions laid down in article 1.

(2) This convention shall not apply to transportation performed under the terms of any international postal convention.

CHAPTER II—TRANSPORTATION DOCUMENTS

SECTION I—PASSENGER TICKET

Article 3

(1) For the transportation of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:

(*a*) The place and date of issue;

(*b*) The place of departure and of destination;

(*c*) The agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the transportation of its international character;

(*d*) The name and address of the carrier or carriers;

(*e*) A statement that the transportation is subject to the rules relating to liability established by this convention.

(2) The absence, irregularity, or loss of the passenger ticket shall not affect the existence or the validity of the contract of transportation, which shall none the less be subject to the rules of this convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this convention which exclude or limit his liability.

SECTION II—BAGGAGE CHECK

Article 4

(1) For the transportation of baggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a baggage check.

(2) The baggage check shall be made out in duplicate, one part for the passenger and the other part for the carrier.

(3) The baggage check shall contain the following particulars:

(*a*) The place and date of issue;

(*b*) The place of departure and of destination;

(*c*) The name and address of the carrier or carriers;

(*d*) The number of the passenger ticket;

(*e*) A statement that delivery of the baggage will be made to the bearer of the baggage check;

(*f*) The number and weight of the packages;

(*g*) The amount of the value declared in accordance with article 22(2);

(*h*) A statement that the transportation is subject to the rules relating to liability established by this convention.

(4) The absence, irregularity, or loss of the baggage check shall not affect the existence or the validity of the contract of transportation which shall none the less be subject to the rules of this convention. Nevertheless, if the carrier accepts baggage without a baggage check having been delivered, or if the baggage check does not contain the particulars set out at (*d*), (*f*), and (*h*) above, the carrier shall not be entitled to avail himself of those provisions of the convention which exclude or limit his liability.

SECTION III—AIR WAYBILL

Article 5

(1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an ''air waybill'': every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity, or loss of this document shall not affect the existence or the validity of the contract of transportation which shall, subject to the provisions of article 9, be none the less governed by the rules of this convention.

Article 6

(1) The air waybill shall be made out by the consignor in three original parts and be handed over with the goods.

(2) The first part shall be marked ''for the carrier'', and shall be signed by the consignor. The second part shall be marked ''for the consignee''; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The carrier shall sign on acceptance of the goods.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

The carrier of goods has the right to require the consignor to make out separate waybills when there is more than package.

Article 8

The air waybill shall contain the following particulars:

(*a*) The place and date of its execution;

(*b*) The place of departure and of destination;

(*c*) The agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the transportation of its international character;

(*d*) The name and address of the consignor;

(*e*) The name and address of the first carrier;

(*f*) The name and address of the consignee, if the case so requires;

(*g*) The nature of the goods;

(*h*) The number of packages, the method of packing, and the particular marks or numbers upon them;

(*i*) The weight, the quantity, the volume, or dimensions of the goods;

(*j*) The apparent condition of the goods and of the packing;

(*k*) The freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;

(*l*) If the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;

(*m*) The amount of the value declared in accordance with article 22(2);

(*n*) The number of parts of the air waybill;

(*o*) The documents handed to the carrier to accompany the air waybill;

(*p*) The time fixed for the completion of the transportation and a brief note of the route to be followed, of these matters have been agreed upon;

(*q*) A statement that the transportation is subject to the rules relating to liability established by this convention.

Article 9

If the carrier accepts goods without an air waybill having been made out, or if the air waybill does not contain all the particulars set out in article 8(*a*) to (*i*), inclusive, and (*q*), the carrier shall not be entitled to avail himself of the provisions of this convention which exclude or limit his liability.

Article 10

(1) The consignor shall be responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air waybill.

(2) The consignor shall be liable for all damages suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11

(1) The air waybill shall be *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of transportation.

(2) The statements in the air waybill relating to the weight, dimensions, and packing of the goods, as well as those relating to the number of packages, shall be *prima facie* evidence of the facts stated; those relating to the quantity, volume, and condition of the goods shall not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

Article 12

(1) Subject to his liability to carry out all his obligations under the contract of transportation, the consignor shall have the right to dispose of the goods by withdrawing them at the airport of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for them to be delivered at the place of destination, or in the course of the journey to a person other than the consignee named in the air waybill, or by requiring them to be returned to the airport of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors, and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

(4) The right conferred on the consignor shall cease at the moment when that of the consignee begins in accordance with article 13, below. Nevertheless, if the consignee declines to accept the waybill or the goods, or if he cannot be communicated with, the consignor shall resume his right of disposition.

Article 13

(1) Except in the circumstances set out in the preceding article, the consignee shall be entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air waybill and to deliver the goods to him, on payment of the charges due and on complying with the conditions of transportation set out in the air waybill.

(2) Unless it is otherwise agreed, it shall be the duty of the carrier to give notice to the consignee as soon as the goods arrive.

(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee shall be entitled to put into force against the carrier the rights which flow from the contract of transportation.

Article 14

The consignor and the consignee can respectively enforce all the rights given them by articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

Article 15

(1) Articles 12, 13, and 14 shall not affect either the relations of the consignor and the consignee with each other or the relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of articles 12, 13, and 14 can only be varied by express provision in the air waybill.

Article 16

(1) The consignor must furnish such information and attach to the air waybill such documents as are necessary to meet the formalities of customs, octroi, or police before the goods can be delivered to the consignee. The consignor shall be liable to the carrier for any damage occasioned by the absence, insufficiency, or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III—LIABILITY OF THE CARRIER

Article 17

The carrier shall be liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Article 18

(1) The carrier shall be liable for damage sustained in the event of the destruction or loss of, or of damage to, any checked baggage or any goods, if the occurrence which caused the damage so sustained took place during the transportation by air.

(2) The transportation by air within the meaning of the preceding paragraph shall comprise the period during which the baggage or goods are in charge of the carrier, whether in an airport or on board an aircraft, or in the case of a landing outside an airport, in any place whatsoever.

(3) The period of the transportation by air shall not extend to any transportation by land, by sea, or by river performed outside an airport. If, however, such transportation takes place in the performance of a contract for transportation by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the transportation by air.

Article 19

The carrier shall be liable for damage occasioned by delay in the transportation by air of passengers, baggage, or goods.

Article 20

(1) The carrier shall not be liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(2) In the transportation of goods and baggage the carrier shall not be liable if he proves that the damage was occasioned by an error in piloting, in the handling of the aircraft, or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

Article 21

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

Article 22

(1) In the transportation of passengers the liability of the carrier for each passenger shall be limited to the sum of 125,000 francs. Where, in accordance with the law of the court to which the case is submitted, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) In the transportation of checked baggage and of goods, the liability of the carrier shall be limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier shall be limited to 5,000 francs per passenger.

(4) The sums mentioned above shall be deemed to refer to the French franc consisting of 65½ milligrams of gold at the standard of fineness of nine hundred thousandths. These sums may be converted into any national currency in round figures.

Article 23

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this convention shall be null and void, but the nullity of any such provision shall not involve the nullity of the whole contract, which shall remain subject to the provisions of this convention.

Article 24

(1) In the cases covered by articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this convention.

(2) In the cases covered by article 17 the provisions of the preceding paragraph shall also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

Article 25

(1) The carrier shall not be entitled to avail himself of the provisions of this convention which exclude or limit his liability, if the damage is caused by his willful misconduct or by such default on his part as, in accordance with the law of the court to which the case is submitted, is considered to be equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused under the same circumstances by any agent of the carrier acting within the scope of his employment.

Article 26

(1) Receipt by the person entitled to the delivery of baggage or goods without complaint shall be *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of transportation.

(2) In case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within 3 days from the date of receipt in the case of baggage and 7 days from the date of receipt in the case of goods. In case of delay the complaint must be made at the latest within 14 days from the date on which the baggage or goods have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of transportation or by separate notice in writing dispatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

Article 27

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this convention against those legally representing his estate.

Article 28

(1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the court of the domicile of the carrier or of his principal place of business, or where he has a place of business through which the contract has been made, or before the court at the place of destination.

(2) Questions of procedure shall be governed by the law of the court to which the case in submitted.

Article 29

(1) The right to damages shall be extinguished if an action is not brought within 2 years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the transportation stopped.

(2) The method of calculating the period of limitation shall be determined by the law of the court to which the case is submitted.

Article 30

(1) In the case of transportation to be performed by various successive carriers and falling within the definition set out in the third paragraph of article 1, each carrier who accepts passengers, baggage or goods shall be subject to the rules set out in this convention, and shall be deemed to be one of the contracting parties to the contract of transportation insofar as the contract deals with that part of the transportation which is performed under his supervision.

(2) In the case of transportation of this nature, the passenger or his representative can take action only against the carrier who performed the transportation during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards baggage or goods, the passenger or consignor shall have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery shall have a right of action against the last carrier, and further, each may take action against the carrier who performed the transportation during which the destruction, loss, damage, or delay took place. These carriers shall be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV—PROVISIONS RELATING TO COMBINED TRANSPORTATION

Article 31

(1) In the case of combined transportation performed partly by air and partly by any other mode of transportation, the provisions of this convention shall apply only to the transportation by air, provided that the

transportation by air falls within the terms of article 1.

(2) Nothing in this convention shall prevent the parties in the case of combined transportation from inserting in the document of air transportation conditions relating to other modes of transportation, provided that the provisions of this convention are observed as regards the transportation by air.

CHAPTER V—GENERAL AND FINAL PROVISIONS

Article 32

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the transportation of goods arbitration clauses shall be allowed, subject to this convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of article 28.

Article 33

Nothing contained in this convention shall prevent the carrier either from refusing to enter into any contract of transportation or from making regulations which do not conflict with the provisions of this convention.

Article 34

This convention shall not apply to international transportation by air performed by way of experimental trial by air navigation enterprises with the view to the establishment of regular lines of air navigation, nor shall it apply to transportation performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35

The expression ''days'' when used in this convention means current days, not working days.

Article 36

This convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

Article 37

(1) This convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which shall give notice of the deposit to the Government of each of the High Contracting Parties.

(2) As soon as this convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the nineteenth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties which shall have ratified and the High Contracting Party which deposits its instrument of ratification on the ninetieth day after the deposit.

(3) It shall be the duty of the Government of the Republic of Poland to notify the Government of each of the High Contracting Parties of the date on which this convention comes into force as well as the date of the deposit of each ratification.

Article 38

(1) This convention shall, after it has come into force, remain open for adherence by any state.

(2) The adherence shall be effected by a notification addressed to the Government of the Republic of Poland, which shall inform the Government of each of the High Contracting Parties thereof.

(3) The adherence shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

Article 39

(1) Any one of the High Contracting Parties may denounce this convention by a notification addressed to the Government of the Republic of Poland, which shall at once inform the Government of each of the High Contracting Parties.

(2) Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the party which shall have proceeded to denunciation.

Article 40

(1) Any High Contracting Party may, at the time of signature or of deposit of ratification or of adherence, declare that the acceptance which it gives to this convention does not apply to all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or its authority, or any other territory under its suzerainty.

(2) Accordingly any High Contracting Party may subsequently adhere separately in the name of all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or to its authority or any other territory under its suzerainty which have been thus excluded by its original declaration.

(3) Any High Contracting Party may denounce this convention, in accordance with its provisions, separately or for all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or to its authority, or any other territory under its suzerainty.

Article 41

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this convention to call for the assembling of a new international conference in order to consider any improvements which may be made in this convention. To this end it will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such conference.

This convention, done at Warsaw on October 12, 1929, shall remain open for signature until January 31, 1930.

ORDER OF CIVIL AERONAUTICS BOARD APPROVING INCREASES IN LIABILITY LIMITATIONS OF WARSAW CONVENTION AND HAGUE PROTOCOL

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of May 1966.

The Convention for the Unification of Certain Rules Relating to International Transportation by Air, generally known as the Warsaw Convention, creates a uniform body of law with respect to the rights and responsibilities of passengers, shippers, and air carriers in international air transportation. The United States became a party to the Convention in 1934, and eventually over 90 countries likewise became parties to the Convention.[1] On November 15, 1965, the U.S. Government gave notice of denunciation of the Convention, emphasizing that such action was solely because of the Convention's low limits of liability for personal injury or death to passengers. Pursuant to Article 39 of the Convention this notice would become effective upon 6 months' notice, in this case, May 15, 1966. Subsequently, the International Air Transport Association (IATA) made efforts to effect an arrangement among air carriers, foreign air carriers, and other carriers (including carriers not members of IATA) providing the major portions of international air carriage to and from the United States to increase the limitations of

[1] The Convention was amended by the Protocol signed at Hague in 1955 which has never been ratified by the United States. The Convention (subject to certain provisions) limits carriers' liability for death or injury to passengers in international transportation to 125,000 gold francs, or approximately $8,300. The Protocol, subject to certain provisions, provides for liability limitations of approximately $16,600.

liability now applicable to claims for personal injury and death under the Convention and the Protocol. The purpose of such action is to provide a basis upon which the United States could withdrawn its notice of denunciation.

The arrangement proposed has been embodied in an agreement (Agreement CAB 18900) between various air carriers, foreign air carriers, and other carriers which has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 and Part 261 of the Board's economic regulations and assigned the above-designated CAB number.

By this agreement, the parties thereto bind themselves to include in their tariffs, effective May 16, 1966, a special contract in accordance with Article 22(1) of the Convention or the Protocol providing for a limit of liability for each passenger for death, wounding, or other bodily injury of $75,000 inclusive of legal fees, and, in case of a claim brought in a State where provision is made for separate award of legal fees and costs, a limit of $58,000 exclusive of legal fees and costs. These limitations shall be applicable to international transportation by the carrier as defined in the Convention or Protocol which includes a point in the United States as a point of origin, point of destination, or agreed stopping place. The parties further agree to provide in their tariffs that the Carrier shall not, with respect to any claim arising out of the death, wounding, or other bodily injury of a passenger, avail itself of any defense under Article 20(1) of the Convention or the Convention as amended by the Protocol. The tariff provisions would stipulate, however, that nothing therein shall be deemed to affect the rights and liabilities of the Carrier with regard to any claim brought by, on behalf of, or in respect of any person who has willfully caused damage which results in death, wounding, or other bodily injury of a passenger.

The carriers by the agreement further stipulate that they will, at time of delivery of the tickets, furnish to each passenger governed by the Convention or the Protocol and by the special contract described above, a notice in 10 point type advising international passengers of the limitations of liability established by the Convention or the Protocol, or the higher liability agreed to by the special contracts pursuant to the Convention or Protocol as described above. The agreement is to become effective upon arrival by this Board, and any carrier may become a party to it by signing a counterpart thereof and depositing it with the Board. Withdrawal from the agreement may be effected by giving 12 months' written notice to the Board and the other Carrier parties thereto.

As indicated, the decision of the U.S. Government to serve notice to denounce the Convention was predicated upon the low liability limits therein for personal injury and death. The Government announced, however, that it would be prepared to withdraw the Notice of Denunciation if, prior to its effective date, there is a reasonable prospect for international agreement on limits of liability for international transportation in the area of $100,000 per passenger or on uniform rules without any limit of liability, and if pending such international agreement there is a provisional arrangement among the principal international air carriers providing for liability up to $75,000 per passenger.

Steps, have been taken by the signing carriers to have tariffs become effective May 16, 1966, upon approval of this agreement, which will increase by special contract their liability for personal injury or death as described herein. The signatory carriers provide by far the greater portion of international transportation to, from, and within the United States. The agreement will result in a salutory increase in the protection given to passengers from the increased liability amounts and the waiver of defenses under Article 20(1) of the Convention or Protocol. The U.S. Government has concluded that such arrangements warrant withdrawal of the Notice of Denunciation of the Warsaw Convention. Implementation of the agreement will permit continued adherence to the Convention with the benefits to be derived therefrom, but without the imposition of the low liability limits therein contained upon most international travel involving travel to or from the United States. The stipulation that no tariff provision shall be deemed to affect the rights and liabilities of the carrier with regard to any claim brought by, on behalf of, or in respect of any person who has willfully caused damage which results in death, wounding or other bodily injury of a passenger operates to diminish any incentive for sabotage.

Upon consideration of the agreement, and of matters relating thereto of which the Board takes notice, the Board does not find that the agreement is adverse to the public interest or in violation of the Act and it will be approved.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly sections 102, 204(a), and 412 thereof:

It is ordered, That: 1. Agreement CAB 18900 is approved.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40106, 44907, 46101, 46301, 46316 of this title.

§ 40106. Emergency powers

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

(1) give the Administrator of the Federal Aviation Administration prior notice of the deviation at the earliest practicable time; and

(2) to the extent time and circumstances allow, make every reasonable effort to consult with the Administrator and arrange for the deviation in advance on a mutually agreeable basis.

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

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

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

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

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

(2) The President may act under this subsection without notice or a hearing. The suspension remains in effect for as long as the Presi-

dent decides is necessary to ensure the security of aircraft against unlawful seizure. Notwithstanding section 40105(b) of this title, the authority of the President to suspend rights under this subsection is a condition to a certificate of public convenience and necessity, air carrier operating certificate, foreign air carrier or foreign aircraft permit, or foreign air carrier operating specification issued by the Secretary of Transportation under this part.

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

AIRCRAFT PIRACY

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40105, 44907, 46107, 46301 of this title.

§ 40107. Presidential transfers

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

SECTION 1. All functions (including powers, duties, activities, and parts of functions) of the Airways Modernization Board, including those of the Chairman thereof, are hereby transferred to the Administrator of the Federal Aviation Agency; and all records, property, facilities, employees, and unexpended balances of appropriations, allocations, and other funds of the Airways Modernization Board, are hereby transferred to the Federal Aviation Agency [now Federal Aviation Administration].

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

SEC. 3. The provisions of this order shall become effective concurrently with the entering upon office as

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

DWIGHT D. EISENHOWER.

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

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

SECTION 1. There is hereby delegated to the Director of the Bureau of the Budget [now the Office of Management and Budget] all authority vested in the President by the last sentence of section 304 [see 49 U.S.C. 40107(a)], and by sections 1502(a) and 1502(b), of the Federal Aviation Act of 1958 (72 Stat. 749, 810) [Pub. L. 85–726, former 49 U.S.C. 1341 note], relating, respectively, (1) to providing in connection with transfers of functions made under other provisions of section 304, (i) for appropriate transfers of records and property, and (ii) for necessary civilian and military personnel to be made available from any office, department, or other agency from which transfers of functions are so made; (2) to determining the employees and property (including office equipment and official equipment and official records) employed by the Civil Aeronautics Board in the exercise and performance of those powers and duties which are vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended [former 49 U.S.C. 401 et seq.], and which are vested by the Federal Aviation Act of 1958 [see 49 U.S.C. 40101 et seq.] in the Federal Aviation Agency, and to specifying the date or dates upon which the transfers of officers, employees, and property (including office equipment and official records) under section 1502(a) shall occur; and (3) specifying the date or dates upon which transfers of unexpended balances of appropriations under section 1502(b) shall occur. Such further measures and dispositions as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine to be necessary in connection with the exercise of the authority delegated to him by this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 2. Executive Order No. 10731 of October 10, 1957, delegating to the Director of the Bureau of the Budget [now the Office of Management and Budget] the authority vested in the President by a certain provision of the Airways Modernization Act of 1957 [former 49 U.S.C. 1211 et seq.], is hereby revoked, such revocation to become effective on the date the repeal of that act takes effect under sections 1401(d) [repealing former 49 U.S.C. 1211–1215] and 1505(2) [former 49 U.S.C. 1301 note] of the Federal Aviation Act of 1958 (72 Stat. 806, 811).

SEC. 3. Except as otherwise provided in section 2 hereof, the provisions of this order shall become effective immediately.

DWIGHT D. EISENHOWER.

EX. ORD. NO. 11047. DELEGATION OF AUTHORITY TO SECRETARY OF DEFENSE AND ADMINISTRATOR

Ex. Ord. No. 11047, Aug. 28, 1962, 27 F.R. 8665, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of Defense and the Administrator of the Federal Aviation Administration are hereby designated and empowered to exercise jointly, without the approval, ratification, or other action of the President, the authority vested in the President by the first sentence of section 304 of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1345 (first sentence)) [see 49 U.S.C. 40107(a)] to transfer functions (including, as used in this order, powers, duties, activities, facilities, and parts of functions) as described in that sentence to the extent that the said authority is in respect of transfers from the Department of Defense or any officer or organizational entity thereof to the Administrator of the Federal Aviation Administration of functions relating to flight inspection of air navigation facilities.

SEC. 2. The Administrator and the Secretary shall exercise the authority hereinabove delegated to them only as they shall deem such exercise to be necessary or desirable in the interest of promoting, in respect of either civil or military aviation or both, safe and efficient air navigation and air traffic control.

SEC. 3. (a) To the extent necessitated by transfers of functions effected under the provisions of Section 1 of this order:

(1) Transfers of balances of appropriations available and necessary to finance and discharge the transferred functions shall be made under the authority of Section 202(b) of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c(b) [see 31 U.S.C. 1531]) as affected by the provisions of section 1(k) of Executive Order No. 10530 of May 10, 1954 [set out as a note under section 301 of Title 3, The President].

(2) Provisions for appropriate transfers of records and property shall be made under the authority of the last sentence of Section 304 of the Federal Aviation Act of 1958 [see 49 U.S.C. 40107(a)] as affected by the provisions of Section 1 of Executive Order No. 10797 of December 24, 1958 [set out above].

(b) Neither this order nor the said Executive Order No. 10797 shall be deemed to require or authorize the transfer of any civilian or military personnel from the Department of Defense to the Federal Aviation Administration, under authority of the said Section 304 [see 49 U.S.C. 40107(a)], in connection with transfers of functions effected under the provisions of Section 1 of this order.

SEC. 4. (a) In order to facilitate the orderly and timely accomplishment of the transfers and other arrangements mentioned in Section 3(a) of this order, the Secretary of Defense and the Administrator of the Federal Aviation Administration shall transmit to the Director of the Office of Management and Budget, not less than 30 days prior to the execution by them of any order or other transfer instrument in pursuance of the provisions of Section 1 of this order, all appropriate information in respect to any transfers or other arrangements proposed to be made in connection therewith under the provisions of Section 3 hereof, together with copy of the order or other transfer instrument proposed to be executed by them.

(b) In connection with any particular action or actions under Section 1 of this order, the Director of the Office of Management and Budget may either waive the requirements of Section 4(a), above, or reduce the 30 day period there prescribed.

EX. ORD. NO. 11161. TRANSFER OF FEDERAL AVIATION AGENCY TO DEFENSE DEPARTMENT IN EVENT OF WAR

Ex. Ord. No. 11161, eff. July 7, 1964, 29 F.R. 9317, as amended by Ex. Ord. No. 11382, eff. Nov. 28, 1967, 32 F.R. 16247, provided:

WHEREAS Section 302(e) of the Federal Aviation Act of 1958 [see 49 U.S.C. 40107(b)] provides, in part, that in the event of war the President by Executive order may transfer to the Department of Defense any functions (including powers, duties, activities, facilities, and parts of functions) of the Federal Aviation Administration; and

WHEREAS it appears that the defense of the United States would require the transfer of the Federal Aviation Administration to the Department of Defense in the event of war; and

WHEREAS if any such transfer were to be made it would be essential to the defense of the United States that the transition be accomplished promptly and with maximum ease and effectiveness; and

WHEREAS these objectives require that the relationships that would obtain in the event of such a transfer

as between the Federal Aviation Administration and the Department of Defense be understood in advance by the two agencies concerned and be developed in necessary detail by them in advance of transfer:

NOW, THEREFORE, by virtue of the authority vested in me by Section 302(e) (72 Stat. 746; 49 U.S.C. 1343(c)) [see 49 U.S.C. 40107(b)], and as President of the United States and Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense and the Secretary of Transportation are hereby directed to prepare and develop plans, procedures, policies, programs, and courses of action in anticipation of the probable transfer of the Federal Aviation Administration to the Department of Defense in the event of war. Those plans, policies, procedures, programs, and courses of action shall be prepared and developed in conformity with the following-described standards and conditions—

(A) The Federal Aviation Administration will function as an adjunct of the Department of Defense with the Federal Aviation Administrator being responsible directly to the Secretary of Defense and subject to his authority, direction, and control to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

(B) To the extent deemed by the Secretary of Defense to be necessary for the accomplishment of the military mission, he will be empowered to direct the Administrator to place operational elements of the Federal Aviation Administration under the direct operational control of appropriate military commanders.

(C) While functioning as an adjunct of the Department of Defense, the Federal Aviation Administration will remain organizationally intact and the Administrator thereof will retain responsibility for administration of his statutory functions, subject to the authority, direction, and control of the Secretary of Defense to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

SEC. 2. In furtherance of the objectives of the foregoing provisions of this order, the Secretary of Defense and the Secretary of Transportation shall, to the extent permitted by law, make such arrangements and take such actions as they deem necessary to assure—

(A) That the functions of the Federal Aviation Administration are performed during any period of national emergency short of war in a manner that will assure that essential national defense requirements will be satisfied during any such period of national emergency.

(B) Consistent with the provisions of paragraphs (A), (B), and (C) of Section 1 of this order, that any transfer of the Federal Aviation Administration to the Department of Defense, in the event of war, will be accomplished smoothly and rapidly and effective operation of the agencies and functions affected by the transfer will be achieved after the transfer.

LYNDON B. JOHNSON.

§ 40108. Training schools

(a) AUTHORITY TO OPERATE.—The Administrator of the Federal Aviation Administration may operate schools to train officers and employees of the Administration to carry out duties, powers, and activities of the Administrator.

(b) ATTENDANCE.—The Administrator may authorize officers and employees of other departments, agencies, or instrumentalities of the United States Government, officers and employees of governments of foreign countries, and individuals from the aeronautics industry to attend those schools. However, if the attendance of any of those officers, employees, or individuals increases the cost of operating the schools, the Administrator may require the payment or transfer of amounts or other consideration to offset the additional cost. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

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

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40108(a)	49 App.:1354(d) (1st sentence). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, § 313(d), 72 Stat. 753. Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40108(b)	49 App.:1354(d) (2d–last sentences). 49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 313(d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g). The words ''school or'' are omitted because of 1:1.

In subsection (a), the words ''officers and'' are added for clarity and consistency in the revised title and with other titles of the United States Code. The words ''to carry out duties, powers, and activities of the Administrator'' are substituted for ''in those subjects necessary for the proper performance of all authorized functions of the Administration'' for clarity and consistency in the revised title.

In subsection (b), the words ''officers and employees'' are substituted for ''personnel'', the words ''departments, agencies, or instrumentalities of the United States Government'' are substituted for ''governmental'', and the words ''governments of foreign countries'' are substituted for ''foreign governments'', for consistency in the revised title and with other titles of the Code. The words ''courses given in'', ''sufficient'', and ''appropriate'' are omitted as surplus. The text of 49 App.:1354(d) (3d sentence) is omitted as unnecessary because chapter 41 of title 5, United States Code, applies to all training of employees. The words ''or both'' are substituted for ''(3) in part as provided under clause (1) and in part as provided under clause (2)'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 40109. Authority to exempt

(a) AIR CARRIERS AND FOREIGN AIR CARRIERS NOT ENGAGED DIRECTLY IN OPERATING AIRCRAFT.—(1) The Secretary of Transportation may exempt from subpart II of this part—

(A) an air carrier not engaged directly in operating aircraft in air transportation; or

(B) a foreign air carrier not engaged directly in operating aircraft in foreign air transportation.

(2) The exemption is effective to the extent and for periods that the Secretary decides are in the public interest.

(b) SAFETY REGULATION.—The Administrator of the Federal Aviation Administration may grant an exemption from a regulation prescribed in carrying out sections 40103(b)(1) and (2), 40119, 44901, 44903, 44906, and 44935–44937 of this title when the Administrator decides the exemption is in the public interest.

(c) OTHER ECONOMIC REGULATION.—Except as provided in this section, the Secretary may ex-

empt to the extent the Secretary considers necessary a person or class of persons from a provision of chapter 411, sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, or a regulation or term prescribed under any of those provisions, when the Secretary decides that the exemption is consistent with the public interest.

(d) LABOR REQUIREMENTS.—The Secretary may not exempt an air carrier from section 42112 of this title. However, the Secretary may exempt from section 42112(b)(1) and (2) an air carrier not providing scheduled air transportation, and the operations conducted during daylight hours by an air carrier providing scheduled air transportation, when the Secretary decides that—

(1) because of the limited extent of, or unusual circumstances affecting, the operation of the air carrier, the enforcement of section 42112(b)(1) and (2) of this title is or would be an unreasonable burden on the air carrier that would obstruct its development and prevent it from beginning or continuing operations; and

(2) the exemption would not affect adversely the public interest.

(e) MAXIMUM FLYING HOURS.—The Secretary may not exempt an air carrier under this section from a provision referred to in subsection (c) of this section, or a regulation or term prescribed under any of those provisions, that sets maximum flying hours for pilots or copilots.

(f) SMALLER AIRCRAFT.—(1) An air carrier is exempt from section 41101(a)(1) of this title, and the Secretary may exempt an air carrier from another provision of subpart II of this part, if the air carrier—

(A)(i) provides passenger transportation only with aircraft having a maximum capacity of 55 passengers; or

(ii) provides the transportation of cargo only with aircraft having a maximum payload of less than 18,000 pounds; and

(B) complies with liability insurance requirements and other regulations the Secretary prescribes.

(2) The Secretary may increase the passenger or payload capacities when the public interest requires.

(3)(A) An exemption under this subsection applies to an air carrier providing air transportation between 2 places in Alaska, or between Alaska and Canada, only if the carrier is authorized by Alaska to provide the transportation.

(B) The Secretary may limit the number or location of places that may be served by an air carrier providing transportation only in Alaska under an exemption from section 41101(a)(1) of this title, or the frequency with which the transportation may be provided, only when the Secretary decides that providing the transportation substantially impairs the ability of an air carrier holding a certificate issued by the Secretary to provide its authorized transportation, including the minimum transportation requirement for Alaska specified under section 41732(b)(1)(B) of this title.

(g) EMERGENCY AIR TRANSPORTATION BY FOREIGN AIR CARRIERS.—(1) To the extent that the Secretary decides an exemption is in the public interest, the Secretary may exempt by order a foreign air carrier from the requirements and limitations of this part for not more than 30 days to allow the foreign air carrier to carry passengers or cargo in interstate air transportation in certain markets if the Secretary finds that—

(A) because of an emergency created by unusual circumstances not arising in the normal course of business, air carriers holding certificates under section 41102 of this title cannot accommodate traffic in those markets;

(B) all possible efforts have been made to accommodate the traffic by using the resources of the air carriers, including the use of—

(i) foreign aircraft, or sections of foreign aircraft, under lease or charter to the air carriers; and

(ii) the air carriers' reservations systems to the extent practicable;

(C) the exemption is necessary to avoid unreasonable hardship for the traffic in the markets that cannot be accommodated by the air carriers; and

(D) granting the exemption will not result in an unreasonable advantage to any party in a labor dispute where the inability to accommodate traffic in a market is a result of the dispute.

(2) When the Secretary grants an exemption to a foreign air carrier under this subsection, the Secretary shall—

(A) ensure that air transportation that the foreign air carrier provides under the exemption is made available on reasonable terms;

(B) monitor continuously the passenger load factor of air carriers in the market that hold certificates under section 41102 of this title; and

(C) review the exemption at least every 30 days to ensure that the unusual circumstances that established the need for the exemption still exist.

(3) The Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days. An exemption may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.

(h) NOTICE AND OPPORTUNITY FOR HEARING.—The Secretary may act under subsections (d) and (f)(3)(B) of this section only after giving the air carrier notice and an opportunity for a hearing.

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

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40109(a)	49 App.:1301(3) (proviso).	Aug. 23, 1958, Pub. L. 85–726, §§ 101(3) (proviso), 307(e), 416(b)(2), 72 Stat. 737, 750, 771.
	49 App.:1386(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 416(b)(3)–(6); added Oct. 24, 1978, Pub. L. 95–504, §§ 31(b), 32, 92 Stat. 1732.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40109(b)	49 App.:1348(e).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40109(c)	49 App.:1386(b)(1).	Aug. 23, 1958, Pub. L. 85–726, § 416(b)(1), 72 Stat. 771; restated Oct. 24, 1978, Pub. L. 95–504, § 31(a), 92 Stat. 1731.
	49 App.:1551(b)(1)(E).	
40109(d)	49 App.:1386(b)(2) (less words between 6th and 7th commas, proviso).	
	49 App.:1551(b)(1)(E).	
40109(e)	49 App.:1386(b)(2) (proviso).	
	49 App.:1551(b)(1)(E).	
40109(f)	49 App.:1386(b)(4), (5), (6) (less words between 5th and 6th commas).	
	49 App.:1551(b)(1)(E).	
40109(g)	49 App.:1386(b)(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 416(b)(7); added Feb. 15, 1980, Pub. L. 96–192, § 13, 94 Stat. 39.
	49 App.:1551(b)(1)(E).	
40109(h)	49 App.:1386(b)(2) (words between 6th and 7th commas), (6) (words between 5th and 6th commas).	
	49 App.:1551(b)(1)(E).	

In this section, the words ''requirements of'', ''term'', and ''or limitation'' are omitted as surplus. The word ''rule'' is omitted as being synonymous with ''regulation''. The word ''unreasonable'' is substituted for ''undue'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), before clause (A), the words ''by order'' are omitted as unnecessary because of 5:ch. 5, subch. II. The word ''exempt'' is substituted for ''relieve'' for consistency in this section.

In subsection (a)(2), the words ''that the Secretary decides'' are added for clarity.

In subsections (b), (c), and (f)(1)(B), the words ''from time to time'' are omitted as unnecessary.

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

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

In subsection (f)(1), before clause (A), the words ''Subject to paragraph (5) of this subsection'' and ''in air transportation'' are omitted as surplus. The words ''the Secretary may exempt'' are substituted for ''as may be prescribed in regulations promulgated by the Board'' for clarity and to eliminate unnecessary words. In clause (A)(ii), the word ''capacity'' is omitted as surplus. In clause (B), the word ''reasonable'' is omitted as surplus. The word ''prescribes'' is substituted for ''adopt'' for consistency in the revised title and with other titles of the Code. The words ''in the public interest'' are omitted as surplus.

In subsection (f)(2), the words ''by regulation'' are omitted as surplus. The word ''payload'' is substituted for ''property'' for consistency in this subsection. The words ''specified in this paragraph'' are omitted as surplus.

In subsection (f)(3), the words ''the State of'' are omitted as surplus.

In subsection (f)(3)(A), the words ''under this subsection'' are substituted for ''from section 1371 of this title or any other requirement of this chapter'', the words ''2 places'' are substituted for ''points both of which are'', and the word ''between'' is substituted for ''one of which is in . . . and the other in'', to eliminate unnecessary words.

In subsection (f)(3)(B), the word ''only'' is added for clarity. The words ''promulgated by the Board'', ''by such air carrier to points within such State'', and ''but not limited to'' are omitted as surplus. The word ''Alaska'' is substituted for ''such State'' for clarity. The cross-reference is to section 41732(b)(1)(B) to correct an error in the source provisions. The cross-reference in 49 App.:1386(b)(6) to 49 App.:1389(c)(2) should have been to 49 App.:1389(f)(2). This error was not corrected when 49 App.:1389 was restated by section 202(b) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1508). The comparable provision is 49 App.:1389(k)(1)(A)(ii), restated as section 41732(b)(1)(B).

In subsection (g), the word ''exemption'' is substituted for ''authorization'' and ''authority'' for clarity and consistency.

In subsection (g)(1), before clause (A), the words ''required'', ''a period'', and ''to the extent necessary'' are omitted as surplus. The word ''mail'' is omitted as being included in ''cargo''. In clause (B), before subclause (i), the words ''for example'' are omitted as surplus.

In subsection (g)(3), the words ''a period'' are omitted as surplus.

In subsection (h), the words ''The Secretary may act under subsections (d) and (f)(3)(B) of this section'' are added because of the restatement. The word ''notice'' does not appear in 49 App.:1386(b)(6) (words between 5th and 6th commas) but is made applicable to both of the restated source provisions for consistency with subchapter II of chapter 5 of title 5, United States Code. The words ''opportunity for a'' are added for consistency in the revised title.

AUTHORITY TO GRANT EXEMPTIONS TO GOVERNMENT AIRCRAFT

Pub. L. 103–411, § 3(b), Oct. 25, 1994, 108 Stat. 4237, provided that:

''(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section [amending section 40102 of this title].

''(2) REQUIREMENTS.—The Administrator may grant an exemption under paragraph (1) only if—

''(A) the Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government; and

''(B) the Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 41505, 41703, 41710, 41733, 41738 of this title; title 39 section 5402.

§ 40110. General procurement authority

(a) GENERAL.—In carrying out this part, the Administrator of the Federal Aviation Administration—

(1) to the extent that amounts are available for obligation, may acquire services or, by condemnation or otherwise, an interest in property, including an interest in airspace immediately adjacent to and needed for airports and other air navigation facilities owned by the United States Government and operated by the Administrator;

(2) may dispose of an interest in property for adequate compensation; and

(3) may construct and improve laboratories and other test facilities.

(b) DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration—

(1) is the senior procurement executive referred to in section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) for approving the justification for using procedures other than competitive procedures, as required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii)); and

(2) may—

(A) notwithstanding section 1341(a)(1) of title 31, lease an interest in property for not more than 20 years;

(B) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace;

(C) construct, or acquire an interest in, a public building (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612)) only under a delegation of authority from the Administrator of General Services;

(D) use procedures other than competitive procedures, as provided under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c));

(E) use procedures other than competitive procedures only when the property or services needed by the Administrator of the Federal Aviation Administration are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the Administrator; and

(F) dispose of property under subsection (a)(2) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1106; Pub. L. 103–429, § 6(48), (80), Oct. 31, 1994, 108 Stat. 4384, 4388.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40110(a)	49 App.:1344(a)(1) (less term of lease), (2) (words before 1st semicolon), (3).	Aug. 23, 1958, Pub. L. 85–726, § 303(a)–(d), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, § 51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, § 16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, § 112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, § 9118(a), 104 Stat. 1388–365.
40110(b)(1) ..	49 App.:1344(d).	
40110(b)(2)(A).	49 App.:1344(a)(1) (related to term of lease).	
40110(b)(2)(B).	49 App.:1344(b)(1).	
40110(b)(2)(C).	49 App.:1344(b)(2).	

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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40110(b)(2)(D).	49 App.:1344(c).	
40110(b)(2)(E).	49 App.:1344(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 747, § 303(g); added Oct. 31, 1992, Pub. L. 102–581, § 201(a), 106 Stat. 4890.
40110(b)(2)(F).	49 App.:1344(a)(2) (words after 1st semicolon).	

In this section, the word ''Administrator'' in section 303(a)–(d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''In carrying out this part'' are added for clarity. The words ''on behalf of the United States . . . where appropriate'' are omitted as surplus. In clause (1), the words ''made by the Congress'', ''by purchase, condemnation . . . or otherwise'', and ''easements through or other'' are omitted as surplus. In clause (2), the words ''by sale, lease, or otherwise'' and ''real or personal'' are omitted as surplus. In clause (3), the word ''renovate'' is omitted as surplus. The words ''and to purchase or otherwise acquire real property required therefor'' are omitted as surplus because of the authority of the Administrator to acquire real property under clause (1) of this subsection.

In subsection (b)(1), the words ''procedures other than competitive procedures'' are substituted for ''noncompetitive procedures'' for consistency with subsection (b)(2)(D) of this section and 41:253(f).

In subsection (b)(2)(B), the text of 49 App.:1344(b)(1) (words before semicolon) and the words ''easements through or other'' are omitted as surplus.

In subsection (b)(2)(C), the words ''by purchase, condemnation, or lease'' are omitted as surplus.

Subsection (b)(2)(E) is substituted for 49 App.:1344(g) to eliminate the cross-references to other laws and for clarity and is based on the text of 10:2304(c)(1).

PUB. L. 103–429

This amends 49:40110(a) to clarify the restatement of 49 App.:1344(a)(1)–(3) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1106).

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b)(2)(F), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title II of the Act is classified principally to subchapter II (§ 481 et seq.) of chapter 10 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429, § 6(48), in introductory provisions, struck out ''may'' after ''Administration'', in par. (1), struck out ''acquire,'' before ''to the extent'' and substituted ''may acquire services or, by condemnation or otherwise,'' for ''services or'', and in pars. (2) and (3), inserted ''may'' after par. designation.

Subsec. (b)(2)(A). Pub. L. 103–429, § 6(80), inserted ''notwithstanding section 1341(a)(1) of title 31,'' before ''lease''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

ALTERNATIVE PROCUREMENT AND ACQUISITION PILOT PROGRAM

Pub. L. 103–355, title V, § 5063, Oct. 13, 1994, 108 Stat. 3356, provided that:

''(a) AUTHORITY.—The Secretary of Transportation may conduct a test of alternative and innovative procurement procedures in carrying out acquisitions for one of the modernization programs under the Airway Capital Investment Plan prepared pursuant to section 44501(b) of title 49, United States Code. In conducting such test, the Secretary shall consult with the Administrator for Federal Procurement Policy.

''(b) PILOT PROGRAM IMPLEMENTATION.—(1) The Secretary of Transportation should prescribe policies and procedures for the interaction of the program manager and the end user executive responsible for the requirement for the equipment acquired. Such policies and procedures should include provisions for enabling the end user executive to participate in acceptance testing.

''(2) Not later than 45 days after the date of enactment of this Act [Oct. 13, 1994], the Secretary of Transportation shall identify for the pilot program quantitative measures and goals for reducing acquisition management costs.

''(3) The Secretary of Transportation shall establish for the pilot program a review process that provides senior acquisition officials with reports on the minimum necessary data items required to ensure the appropriate expenditure of funds appropriated for the program and that—

''(A) contain essential information on program results at appropriate intervals, including the criteria to be used in measuring the success of the program; and

''(B) reduce data requirements from the current program review reporting requirements.

''(c) SPECIAL AUTHORITIES.—The authority provided by subsection (a) shall include authority for the Secretary of Transportation—

''(1) to apply any amendment or repeal of a provision of law made in this Act [see Short Title of 1994 Amendment note set out under section 251 of Title 41, Public Contracts] to the pilot program before the effective date of such amendment or repeal; and

''(2) to apply to a procurement of items other than commercial items under such program—

''(A) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

''(B) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

''(d) APPLICABILITY.—Subsection (c) applies with respect to—

''(1) a contract that is awarded or modified after the date occurring 45 days after the date of the enactment of this Act [Oct. 13, 1994]; and

''(2) a contract that is awarded before such date and is to be performed (or may be performed), in whole or in part, after such date.

''(e) PROCEDURES AUTHORIZED.—The test conducted under this section may include any of the following procedures:

''(1) Restriction of competitions to sources determined capable in a precompetition screening process, provided that the screening process affords all interested sources a fair opportunity to be considered.

''(2) Restriction of competitions to sources of preevaluated products, provided that the preevaluation process affords all interested sources a fair opportunity to be considered.

''(3) Alternative notice and publication requirements.

''(4) A process in which—

''(A) the competitive process is initiated by publication in the Commerce Business Daily, or by dissemination through FACNET, of a notice that—

''(i) contains a synopsis of the functional and performance needs of the executive agency conducting the test, and, for purposes of guidance only, other specifications; and

''(ii) invites any interested source to submit information or samples showing the suitability of its product for meeting those needs, together with a price quotation, or, if appropriate, showing the source's technical capability, past performance, product supportability, or other qualifications (including, as appropriate, information regarding rates and other cost-related factors);

''(B) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submissions of interested sources and, if the officials determine necessary, after consultation with those sources; and

''(C) a contract is awarded after a streamlined competition that is limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on the qualification-based factors included in an invitation to submit information pursuant to subparagraph (A).

''(f) WAIVER OF PROCUREMENT REGULATIONS.—(1) In conducting the test under this section, the Secretary of Transportation, with the approval of the Administrator for Federal Procurement Policy, may waive—

''(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

''(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to test procedures authorized by subsection (e).

''(2) The provisions of law referred to in paragraph (1) are as follows:

''(A) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

''(B) The following provisions of the Federal Property and Administrative Services Act of 1949:

''(i) Section 303 (41 U.S.C. 253).

''(ii) Section 303A (41 U.S.C. 253a).

''(iii) Section 303B (41 U.S.C. 253b).

''(iv) Section 303C (41 U.S.C. 253c).

''(C) The following provisions of the Office of Federal Procurement Policy Act:

''(i) Section 4(6) (41 U.S.C. 403(6)).

''(ii) Section 18 (41 U.S.C. 416).

''(g) DEFINITION.—In this section, the term 'commercial item' has the meaning provided that term in section 4(12) of the Office of Federal Procurement Policy Act [41 U.S.C. 403(12)].

''(h) EXPIRATION OF AUTHORITY.—The authority to conduct the test under subsection (a) and to award contracts under such test shall expire 4 years after the date of the enactment of this Act. Contracts entered into before such authority expires shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

''(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the test conducted pursuant to subsection (a).''

§ 40111. Multiyear procurement contracts for services and related items

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31, the Administrator of the Federal Aviation Administration may make a contract of not more than 5 years for the following types of services and items of supply related to those services for which amounts otherwise would be available for obligation only in the fiscal year for which appropriated:

(1) operation, maintenance, and support of facilities and installations.

(2) operation, maintenance, and modification of aircraft, vehicles, and other highly complex equipment.

(3) specialized training requiring high quality instructor skills, including training of pilots and aircrew members and foreign language training.

(4) base services, including ground maintenance, aircraft refueling, bus transportation, and refuse collection and disposal.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section only if the Administrator finds that—

(1) there will be a continuing requirement for the service consistent with current plans for the proposed contract period;

(2) providing the service will require a substantial initial investment in plant or equipment, or will incur a substantial contingent liability for assembling, training, or transporting a specialized workforce; and

(3) the contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

(c) CONSIDERATIONS.—When making a contract under this section, the Administrator shall be guided by the following:

(1) The part of the cost of a plant or equipment amortized as a cost of contract performance may not be more than the ratio between the period of contract performance and the anticipated useful commercial life (instead of physical life) of the plant or equipment, considering the location and specialized nature of the plant or equipment, obsolescence, and other similar factors.

(2) The Administrator shall consider the desirability of—

(A) obtaining an option to renew the contract for a reasonable period of not more than 3 years, at a price that does not include charges for nonrecurring costs already amortized; and

(B) reserving in the Administrator the right, on payment of the unamortized part of the cost of the plant or equipment, to take title to the plant or equipment under appropriate circumstances.

(d) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) an appropriation originally available for carrying out the contract;

(2) an appropriation currently available for procuring the type of service concerned and not otherwise obligated; or

(3) amounts appropriated for payments to end the contract.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1107.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40111(a)	49 App.:1344(e)(1).	Aug. 23, 1958, Pub. L. 85–726, §303(e), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, §112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, §9118(a), 104 Stat. 1388–366.
40111(b)	49 App.:1344(e)(2).	
40111(c)	49 App.:1344(e)(3).	
40111(d)	49 App.:1344(e)(4).	

In this section, the word ''Administrator'' in section 303(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''periods of'' are omitted as surplus. In clause (3), the words ''training of'' are added for clarity. In clause (4), the word ''aircraft'' is substituted for ''in-plane'' for clarity.

In subsection (c)(2)(A), the words ''plant, equipment, and other'' are omitted as surplus.

In subsection (d), the words ''canceled or'' and ''cancellation or'' are omitted as being included in ''ended'' and ''ending'', respectively.

§ 40112. Multiyear procurement contracts for property

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31 and to the extent that amounts otherwise are available for obligation, the Administrator of the Federal Aviation Administration may make a contract of more than one but not more than 5 fiscal years to purchase property, except a contract to construct, alter, or make a major repair or improvement to real property or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section if the Administrator finds that—

(1) the contract will promote the safety or efficiency of the national airspace system and will result in reduced total contract costs;

(2) the minimum need for the property to be purchased is expected to remain substantially unchanged during the proposed contract period in terms of production rate, procurement rate, and total quantities;

(3) there is a reasonable expectation that throughout the proposed contract period the Administrator will request appropriations for the contract at the level required to avoid cancellation;

(4) there is a stable design for the property to be acquired and the technical risks associated with the property are not excessive; and

(5) the estimates of the contract costs and the anticipated savings from the contract are realistic.

(c) REGULATIONS.—The Administrator shall prescribe regulations for acquiring property under this section to promote the use of contracts under this section in a way that will allow the most efficient use of those contracts. The regulations may provide for a cancellation

provision in the contract to the extent the provision is necessary and in the best interest of the United States. The provision may include consideration of recurring and nonrecurring costs of the contractor associated with producing the item to be delivered under the contract. The regulations shall provide that, to the extent practicable—

(1) to broaden the aviation industrial base—

(A) a contract under this section shall be used to seek, retain, and promote the use under that contract of subcontractors, vendors, or suppliers; and

(B) on accrual of a payment or other benefit accruing on a contract under this section to a subcontractor, vendor, or supplier participating in the contract, the payment or benefit shall be delivered in the most expeditious way practicable; and

(2) this section and regulations prescribed under this section may not be carried out in a way that precludes or curtails the existing ability of the Administrator to provide for—

(A) competition in producing items to be delivered under a contract under this section; or

(B) ending a prime contract when performance is deficient with respect to cost, quality, or schedule.

(d) CONTRACT PROVISIONS.—(1) A contract under this section may—

(A) be used for the advance procurement of components, parts, and material necessary to manufacture equipment to be used in the national airspace system;

(B) provide that performance under the contract after the first year is subject to amounts being appropriated; and

(C) contain a negotiated priced option for varying the number of end items to be procured over the period of the contract.

(2) If feasible and practicable, an advance procurement contract may be made to achieve economic-lot purchases and more efficient production rates.

(e) CANCELLATION PAYMENT AND NOTICE OF CANCELLATION CEILING.—(1) If a contract under this section provides that performance is subject to an appropriation being made, it also may provide for a cancellation payment to be made to the contractor if the appropriation is not made.

(2) Before awarding a contract under this section containing a cancellation ceiling of more than $100,000,000, the Administrator shall give written notice of the proposed contract and cancellation ceiling to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The contract may not be awarded until the end of the 30-day period beginning on the date of the notice.

(f) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) an appropriation originally available for carrying out the contract;

(2) an appropriation currently available for procuring the type of property concerned and not otherwise obligated; or

(3) amounts appropriated for payments to end the contract.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1108.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40112(a)	49 App.:1344(f)(1) (words before 4th comma), (6), (7) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 303(f), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, § 51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, § 16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, § 112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, § 9118(a), 104 Stat. 1388–367.
40112(b)	49 App.:1344(f)(1) (words after 4th comma).	
40112(c)	49 App.:1344(f)(2).	
40112(d)(1)(A).	49 App.:1344(f)(4) (words before 3d comma).	
40112(d)(1)(B).	49 App.:1344(f)(7) (last sentence words before "and (if").	
40112(d)(1)(C).	49 App.:1344(f)(8).	
40112(d)(2) ..	49 App.:1344(f)(4) (words after 3d comma).	
40112(e)(1) ..	49 App.:1344(f)(7) (last sentence words after "of funds").	
40112(e)(2) ..	49 App.:1344(f)(3).	
40112(f)	49 App.:1344(f)(5).	

In this section, the word "Administrator" in section 303(f) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), the reference in 49 App.:1344(f)(7) to a contract for the purchase of services is omitted as surplus because 49 App.:1344(f)(1) states that the subsection is concerned only with contracts for the purchase of property.

In subsection (b)(5), the word "savings" is substituted for "cost avoidance" for clarity.

In subsection (c), before clause (1), the word "both" is omitted as surplus. In clause (1)(A), the words "in such a manner as" and "companies that are" are omitted as surplus. In clause (1)(B), the words "accruing on" are substituted for "under" for clarity. The words "subcontractor" and "contract" are substituted for "subcontract" and "contractor", respectively, to correct errors in the source provisions being restated.

In subsection (d)(1)(B), the words "after the first year" are substituted for "during the second and subsequent years of the contract" to eliminate unnecessary words.

In subsection (e)(2), the words "a clause setting forth" are omitted as surplus.

In subsection (f), the words "canceled or" and "cancellation or" are omitted as being included in "ended" and "ending", respectively.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives changed to Committee on Transportation and Infrastructure of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

§ 40113. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Transportation (or the Administrator of the

Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may take action the Secretary or Administrator, as appropriate, considers necessary to carry out this part, including conducting investigations, prescribing regulations, standards, and procedures, and issuing orders.

(b) HAZARDOUS MATERIAL.—In carrying out this part, the Secretary has the same authority to regulate the transportation of hazardous material by air that the Secretary has under section 5103 of this title. However, this subsection does not prohibit or regulate the transportation of a firearm (as defined in section 232 of title 18) or ammunition for a firearm, when transported by an individual for personal use.

(c) GOVERNMENTAL ASSISTANCE.—The Secretary (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may use the assistance of the Administrator of the National Aeronautics and Space Administration and any research or technical department, agency, or instrumentality of the United States Government on matters related to aircraft fuel and oil, and to the design, material, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities. Each department, agency, and instrumentality may conduct scientific and technical research, investigations, and tests necessary to assist the Secretary or Administrator of the Federal Aviation Administration in carrying out this part. This part does not authorize duplicating laboratory research activities of a department, agency, or instrumentality.

(d) INDEMNIFICATION.—The Administrator of the Federal Aviation Administration may indemnify an officer or employee of the Administration against a claim or judgment arising out of an act that the Administrator decides was committed within the scope of the official duties of the officer or employee.

(e) ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.—

(1) SAFETY-RELATED TRAINING AND OPERATIONAL SERVICES.—The Administrator may provide safety-related training and operational services to foreign aviation authorities with or without reimbursement, if the Administrator determines that providing such services promotes aviation safety. To the extent practicable, air travel reimbursed under this subsection shall be conducted on United States air carriers.

(2) REIMBURSEMENT SOUGHT.—The Administrator shall actively seek reimbursement for services provided under this subsection from foreign aviation authorities capable of providing such reimbursement.

(3) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this section shall be credited to the appropriation from which the expenses were incurred in providing such services.

(4) REPORTING.—Not later than December 31, 1995, and annually thereafter, the Administrator shall transmit to Congress a list of the foreign aviation authorities to which the Administrator provided services under this subsection in the preceding fiscal year. Such list shall specify the dollar value of such services and any reimbursement received for such services.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1110; Pub. L. 103–305, title II, § 202, Aug. 23, 1994, 108 Stat. 1582.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40113(a)	49 App.:1324(a).	Aug. 23, 1958, Pub. L. 85–726, §§ 204(a), 313(a), 72 Stat. 743, 752.
	49 App.:1354(a).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40113(b)	49 App.:1472(h)(1), (3).	Aug. 23, 1958, Pub. L. 85–726, § 902(h)(1), (3), 72 Stat. 785; restated Jan. 3, 1975, Pub. L. 93–633, § 113(c), 88 Stat. 2162, 2163.
40113(c)	49 App.:1505.	Aug. 23, 1958, Pub. L. 85–726, § 1105, 72 Stat. 798; Oct. 15, 1962, Pub. L. 87–810, § 3, 76 Stat. 921.
	49 App.:1655(c)(1).	
40113(d)	49 App.:1354(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 313(e); added Dec. 30, 1987, Pub. L. 100–223, § 205, 101 Stat. 1521.

In subsections (a), (c), and (d), the word ''Administrator'' in sections 313(a) and (e) and 1105 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752, 798) is retained on authority of 49:106(g).

Subsection (a) is substituted for 49 App.:1324(a) and 1354(a) to eliminate unnecessary words. The word ''standards'' is added for consistency.

In subsection (b), the words ''his responsibilities under'' and ''safe'' are omitted as surplus.

In subsection (c), the words ''department, agency, and instrumentality'' are substituted for ''agency'' and ''governmental agency'' for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1505 (2d, 3d sentences) is omitted as superseded by 49 App.:1903(b), restated in sections 1105, 1110, and 1111 of the revised title. The word ''existing'' is omitted as surplus.

In subsection (d), the text of 49 App.:1354(e) (last sentence) is omitted because of 49:322(a).

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–305 added subsec. (e).

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

Pub. L. 103–331, title I, Sept. 30, 1994, 108 Stat. 2476, provided in part that: ''None of the funds in this Act [see Tables for classification] shall be available for activities under this head the obligations for which are in excess of $9,970,000 during fiscal year 1995.'' Similar provisions were contained in the following prior appropriation Acts, certain of which also authorized Secretary of Transportation to issue notes or other obligations to Secretary of the Treasury to pay any necessary expenses required pursuant to any guarantee issued under Public Law 85–307, as amended:

Pub. L. 103–122, title I, Oct. 27, 1993, 107 Stat. 1205.
Pub. L. 102–388, title I, Oct. 6, 1992, 106 Stat. 1527.
Pub. L. 102–143, title I, Oct. 28, 1991, 105 Stat. 924.
Pub. L. 101–516, title I, Nov. 5, 1990, 104 Stat. 2161.
Pub. L. 101–164, title I, Nov. 21, 1989, 103 Stat. 1076.
Pub. L. 100–457, title I, Sept. 30, 1988, 102 Stat. 2131.
Pub. L. 100–202, § 101(*l*) [title I], Dec. 22, 1987, 101 Stat. 1329–358, 1329–363.

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

Pub. L. 99–190, § 101(e) [title I], Dec. 19, 1985, 99 Stat. 1267, 1273.

Pub. L. 98–473, title I, § 3101(i) [title I], Oct. 12, 1984, 98 Stat. 1944, 1950.

Pub. L. 98–78, title I, Aug. 15, 1983, 97 Stat. 458.

Pub. L. 98–63, title I, July 30, 1983, 97 Stat. 339.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 46102 of this title.

§ 40114. Reports and records

(a) WRITTEN REPORTS.—(1) Except as provided in this part, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall make a written report of each proceeding and investigation under this part in which a formal hearing was held and shall provide a copy to each party to the proceeding or investigation. The report shall include the decision, conclusions, order, and requirements of the Secretary or Administrator as appropriate.

(2) The Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall have all reports, orders, decisions, and regulations the Secretary or Administrator, as appropriate, issues or prescribes published in the form and way best adapted for public use. A publication of the Secretary or Administrator is competent evidence of its contents.

(b) PUBLIC RECORDS.—Except as provided in subpart II of this part, copies of tariffs and arrangements filed with the Secretary under subpart II, and the statistics, tables, and figures contained in reports made to the Secretary under subpart II, are public records. The Secretary is the custodian of those records. A public record, or a copy or extract of it, certified by the Secretary under the seal of the Department of Transportation is competent evidence in an investigation by the Secretary and in a judicial proceeding.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1110.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40114(a)(1) ..	49 App.:1324(d) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, §§ 204(d), 313(b), 1103, 72 Stat. 743, 753, 797.
	49 App.:1354(b) (1st, 2d sentences).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40114(a)(2) ..	49 App.:1324(d) (3d, last sentences).	
	49 App.:1354(b) (3d, last sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
40114(b)	49 App.:1503.	
	49 App.:1551(b)(1)(E).	

In subsection (a), the word ''Administrator'' in section 313(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g).

In subsection (a)(1), the words ''otherwise'', ''requirement in the premises'', and ''shall be entered of record'' are omitted as surplus.

In subsection (a)(2), the word ''rules'' is omitted as being synonymous with ''regulations''. The word ''prescribes'' is added for consistency in the revised title and with other titles of the United States Code. The words ''under this chapter'' and ''information and'' are omitted as surplus. The words ''A publication of the Secretary or Administrator is competent evidence of its contents'' is substituted for 49 App.:1324(d) (last sentence) to eliminate unnecessary words and for consistency.

In subsection (b), the words ''otherwise'', ''all contracts, agreements, understandings, and'', ''annual or other'', ''of air carriers and other persons'', and ''preserved as'' are omitted as surplus. The last sentence is substituted for 49 App.:1503 (words after 7th comma) to eliminate unnecessary words and for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 40115. Withholding information

(a) OBJECTIONS TO DISCLOSURE.—(1) A person may object to the public disclosure of information—

(A) in a record filed under this part; or

(B) obtained under this part by the Secretary of Transportation or State or the United States Postal Service.

(2) An objection must be in writing and must state the reasons for the objection. The Secretary of Transportation or State or the Postal Service shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information would—

(A) prejudice the United States Government in preparing and presenting its position in international negotiations; or

(B) have an adverse effect on the competitive position of an air carrier in foreign air transportation.

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1111.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40115	49 App.:1504.	Aug. 23, 1958, Pub. L. 85–726, § 1104, 72 Stat. 797; restated Oct. 24, 1978, Pub. L. 95–504, § 39, 92 Stat. 1743; Feb. 15, 1980, Pub. L. 96–192, § 19, 94 Stat. 43.

In subsection (a)(1)(B), the words ''the Secretary of Transportation or State or the United States Postal Service'' are substituted for ''the Board, the Secretary of State, or the Secretary of Transportation'' because under 49 App.:1551 the duties of the Civil Aeronautics Board were transferred to the Secretary of Transportation and the Postal Service.

In subsection (a)(2), the words ''shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that

disclosure of the information'' are substituted for ''shall be withheld from public disclosure by the Board, the Secretary of State or the Secretary of Transportation'' for clarity and because of the restatement.

In subsection (b), the words ''The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46311 of this title.

§ 40116. State taxation

(a) DEFINITION.—In this section, ''State'' includes the District of Columbia, a territory or possession of the United States, and a political authority of at least 2 States.

(b) PROHIBITIONS.—Except as provided in subsection (c) of this section and section 40117 of this title, a State or political subdivision of a State may not levy or collect a tax, fee, head charge, or other charge on—

(1) an individual traveling in air commerce;

(2) the transportation of an individual traveling in air commerce;

(3) the sale of air transportation; or

(4) the gross receipts from that air commerce or transportation.

(c) AIRCRAFT TAKING OFF OR LANDING IN STATE.—A State or political subdivision of a State may levy or collect a tax on or related to a flight of a commercial aircraft or an activity or service on the aircraft only if the aircraft takes off or lands in the State or political subdivision as part of the flight.

(d) UNREASONABLE BURDENS AND DISCRIMINATION AGAINST INTERSTATE COMMERCE.—(1) In this subsection—

(A) ''air carrier transportation property'' means property (as defined by the Secretary of Transportation) that an air carrier providing air transportation owns or uses.

(B) ''assessment'' means valuation for a property tax levied by a taxing district.

(C) ''assessment jurisdiction'' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(D) ''commercial and industrial property'' means property (except transportation property and land used primarily for agriculture or timber growing) devoted to a commercial or industrial use and subject to a property tax levy.

(2)(A) A State, political subdivision of a State, or authority acting for a State or political subdivision may not do any of the following acts because those acts unreasonably burden and discriminate against interstate commerce:

(i) assess air carrier transportation property at a value that has a higher ratio to the true market value of the property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(ii) levy or collect a tax on an assessment that may not be made under clause (i) of this subparagraph.

(iii) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate greater than the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(iv) Levy[1] or collect a tax, fee, or charge, first taking effect after the date of the enactment of this clause, exclusively upon any business located at a commercial service airport or operating as a permittee of such an airport other than a tax, fee, or charge wholly utilized for airport or aeronautical purposes.

(B) Subparagraph (A) of this paragraph does not apply to an in lieu tax completely used for airport and aeronautical purposes.

(e) OTHER ALLOWABLE TAXES AND CHARGES.—Except as provided in subsection (d) of this section, a State or political subdivision of a State may levy or collect—

(1) taxes (except those taxes enumerated in subsection (b) of this section), including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and

(2) reasonable rental charges, landing fees, and other service charges from aircraft operators for using airport facilities of an airport owned or operated by that State or subdivision.

(f) PAY OF AIR CARRIER EMPLOYEES.—(1) In this subsection—

(A) ''pay'' means money received by an employee for services.

(B) ''State'' means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(C) an employee is deemed to have earned 50 percent of the employee's pay in a State or political subdivision of a State in which the scheduled flight time of the employee in the State or subdivision is more than 50 percent of the total scheduled flight time of the employee when employed during the calendar year.

(2) The pay of an employee of an air carrier having regularly assigned duties on aircraft in at least 2 States is subject to the income tax laws of only the following:

(A) the State or political subdivision of the State that is the residence of the employee.

(B) the State or political subdivision of the State in which the employee earns more than 50 percent of the pay received by the employee from the carrier.

(3) Compensation paid by an air carrier to an employee described in subsection (a) in connection with such employee's authorized leave or other authorized absence from regular duties on the carrier's aircraft in order to perform services on behalf of the employee's airline union shall be subject to the income tax laws of only the following:

(A) The State or political subdivision of the State that is the residence of the employee.

(B) The State or political subdivision of the State in which the employee's scheduled flight time would have been more than 50 percent of

[1] So in original. Probably should not be capitalized.

the employee's total scheduled flight time for the calendar year had the employee been engaged full time in the performance of regularly assigned duties on the carrier's aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1111; Pub. L. 103–305, title I, § 112(e), title II, § 208, Aug. 23, 1994, 108 Stat. 1576, 1588.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40116(a)	49 App.:1513(d)(2)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(d); added Sept. 3, 1982, Pub. L. 97–248, § 532(b), 96 Stat. 701.
	49 App.:1513(f) (words in parentheses).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(f); added Nov. 5, 1990, Pub. L. 101–508, § 9125, 104 Stat. 1388–370.
40116(b)	49 App.:1513(a).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(a); added June 18, 1973, Pub. L. 93–44, § 7(a), 87 Stat. 90; Nov. 5, 1990, Pub. L. 101–508, § 9110(1), 104 Stat. 1388–357.
40116(c)	49 App.:1513(f) (less words in parentheses).	
40116(d)	49 App.:1513(d)(1), (2)(A)–(D), (3).	
40116(e)	49 App.:1513(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(b); added June 18, 1973, Pub. L. 93–44, § 7(a), 87 Stat. 90; Sept. 3, 1982, Pub. L. 97–248, § 532(a), 96 Stat. 701.
40116(f)(1)(A), (B).	49 App.:1512(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1112; added Dec. 23, 1970, Pub. L. 91–569, § 4(a), 84 Stat. 1502; restated Feb. 18, 1980, Pub. L. 96–193, § 402, 94 Stat. 57.
40116(f)(1)(C).	49 App.:1512(b).	
40116(f)(2) ...	49 App.:1512(a).	

Subsection (a) is made applicable to subsections (b) and (e) of this section to avoid having to repeat the term being defined. In subsection (a), the words ''Commonwealth of Puerto Rico, the Virgin Islands, Guam'' are omitted as surplus because of the definition of ''territory or possession of the United States'' in section 40102(a) of the revised title. The word ''authority'' is substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), reference to 49 App.:1513(f), restated as subsection (c) of this section, is added for clarity. The words ''directly or indirectly'' are omitted as surplus. The text of 49 App.:1513(a) (words after ''subsection (e) and'') is omitted as surplus.

In subsections (d)(2)(A), before clause (i), and (f)(1)(C) and (2), the word ''political'' is added for consistency in the revised title and with other titles of the Code.

In subsection (f)(1)(A), the word ''pay'' is substituted for ''compensation'' for consistency in the revised title and with chapter 55 of title 5, United States Code. The words ''rendered by the employee in the performance of his duties and shall include wages and salary'' are omitted as surplus.

In subsection (f)(1)(B), the words ''means a State of the United States'' are substituted for ''also means'' for clarity.

In subsection (f)(1)(C), the words ''of a State'' are added for clarity.

In subsection (f)(2), before clause (A), the words ''as such an employee'' are omitted as surplus.

REFERENCES IN TEXT

The date of the enactment of this clause, referred to in subsec. (d)(2)(A)(iv), is the date of enactment of Pub. L. 103–305, which was approved Aug. 23, 1994.

AMENDMENTS

1994—Subsec. (d)(2)(A)(iv). Pub. L. 103–305, § 112(e), added cl. (iv).

Subsec. (f)(3). Pub. L. 103–305, § 208, added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 46316 of this title.

§ 40117. Passenger facility fees

(a) DEFINITIONS.—In this section—

(1) ''airport'', ''commercial service airport'', and ''public agency'' have the same meanings given those terms in section 47102 of this title.

(2) ''eligible agency'' means a public agency that controls a commercial service airport.

(3) ''eligible airport-related project'' means a project—

(A) for airport development or airport planning under subchapter I of chapter 471 of this title;

(B) for terminal development described in section 47110(d) of this title;

(C) for airport noise capability planning under section 47505 of this title;

(D) to carry out noise compatibility measures eligible for assistance under section 47504 of this title, whether or not a program for those measures has been approved under section 47504;

(E) for constructing gates and related areas at which passengers board or exit aircraft; and

(F) in addition to projects eligible under subparagraph (A), the construction, reconstruction, repair, or improvement of areas of an airport used for the operation of aircraft or actions to mitigate the environmental effects of such construction, reconstruction, repair, or improvement when the construction, reconstruction, repair, improvement, or action is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, or the Federal Water Pollution Control Act with respect to the airport.

(4) ''passenger facility fee'' means a fee imposed under this section.

(5) ''passenger facility revenue'' means revenue derived from a passenger facility fee.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may authorize under this section an eligible agency to impose a passenger facility fee of $1, $2, or $3 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, to be carried out in connection with the airport or any other airport the agency controls.

(2) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not regulate or prohibit the imposition or collection of a passenger facility fee or the use of the passenger facility revenue.

(3) A passenger facility fee may be imposed on a passenger of an air carrier or foreign air car-

rier originating or connecting at the commercial service airport that the agency controls.

(c) APPLICATIONS.—(1) An eligible agency must submit to the Secretary an application for authority to impose a passenger facility fee. The application shall contain information and be in the form that the Secretary may require by regulation.

(2) Before submitting an application, the eligible agency must provide reasonable notice to, and an opportunity for consultation with, air carriers and foreign air carriers operating at the airport. The Secretary shall prescribe regulations that define reasonable notice and contain at least the following requirements:

(A) The agency must provide written notice of individual projects being considered for financing by a passenger facility fee and the date and location of a meeting to present the projects to air carriers and foreign air carriers operating at the airport.

(B) Not later than 30 days after written notice is provided under subparagraph (A) of this paragraph, each air carrier and foreign air carrier operating at the airport must provide to the agency written notice of receipt of the notice. Failure of a carrier to provide the notice may be deemed certification of agreement with the project by the carrier under subparagraph (D) of this paragraph.

(C) Not later than 45 days after written notice is provided under subparagraph (A) of this paragraph, the agency must conduct a meeting to provide air carriers and foreign air carriers with descriptions of projects and justifications and a detailed financial plan for projects.

(D) Not later than 30 days after the meeting, each air carrier and foreign air carrier must provide to the agency certification of agreement or disagreement with projects (or total plan for the projects). Failure to provide the certification is deemed certification of agreement with the project by the carrier. A certification of disagreement is void if it does not contain the reasons for the disagreement.

(3) After receiving an application, the Secretary shall provide notice and an opportunity to air carriers, foreign air carriers, and other interested persons to comment on the application. The Secretary shall make a final decision on the application not later than 120 days after receiving it.

(d) LIMITATIONS ON APPROVING APPLICATIONS.—The Secretary may approve an application that an eligible agency has submitted under subsection (c) of this section to finance a specific project only if the Secretary finds, based on the application, that—

(1) the amount and duration of the proposed passenger facility fee will result in revenue (including interest and other returns on the revenue) that is not more than the amount necessary to finance the specific project;

(2) each project is an eligible airport-related project that will—

(A) preserve or enhance capacity, safety, or security of the national air transportation system;

(B) reduce noise resulting from an airport that is part of the system; or

(C) provide an opportunity for enhanced competition between or among air carriers and foreign air carriers; and

(3) the application includes adequate justification for each of the specific projects.

(e) LIMITATIONS ON IMPOSING FEES.—(1) An eligible agency may impose a passenger facility fee only—

(A) if the Secretary approves an application that the agency has submitted under subsection (c) of this section; and

(B) subject to terms the Secretary may prescribe to carry out the objectives of this section.

(2) A passenger facility fee may not be collected from a passenger—

(A) for more than 2 boardings on a one-way trip or a trip in each direction of a round trip;

(B) for the boarding to an eligible place under subchapter II of chapter 417 of this title for which essential air service compensation is paid under subchapter II;

(C) for a project the Secretary does not approve under this section before October 1, 1993, if, during the fiscal year ending September 30, 1993, the amount available for obligation under subchapter II of chapter 417 of this title is less than $38,600,000, except that this clause—

(i) does not apply if the amount available for obligation under subchapter II of chapter 417 of this title is less than $38,600,000 because of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriation law; and

(ii) does not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues, derived from a fee imposed under an approval made under this section, by a public agency that has received an approval to impose a fee under this section before September 30, 1993, regardless of whether the fee is being imposed on September 30, 1993; and

(D) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flier award coupon without monetary payment.

(f) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—(1) A contract between an air carrier or foreign air carrier and an eligible agency made at any time may not impair the authority of the agency to impose a passenger facility fee or to use the passenger facility revenue as provided in this section.

(2) A project financed with a passenger facility fee may not be subject to an exclusive long-term lease or use agreement of an air carrier or foreign air carrier, as defined by regulations of the Secretary.

(3) A lease or use agreement of an air carrier or foreign air carrier related to a project whose construction or expansion was financed with a passenger facility fee may not restrict the eligible agency from financing, developing, or assign-

ing new capacity at the airport with passenger facility revenue.

(g) TREATMENT OF REVENUE.—(1) Passenger facility revenue is not airport revenue for purposes of establishing a price under a contract between an eligible agency and an air carrier or foreign air carrier.

(2) An eligible agency may not include in its price base the part of the capital costs of a project paid for by using passenger facility revenue to establish a price under a contract between the agency and an air carrier or foreign air carrier.

(3) For a project for terminal development, gates and related areas, or a facility occupied or used by at least one air carrier or foreign air carrier on an exclusive or preferential basis, a price payable by an air carrier or foreign air carrier using the facilities must at least equal the price paid by an air carrier or foreign air carrier using a similar facility at the airport that was not financed with passenger facility revenue.

(h) COMPLIANCE.—(1) As necessary to ensure compliance with this section, the Secretary shall prescribe regulations requiring recordkeeping and auditing of accounts maintained by an air carrier or foreign air carrier and its agent collecting a passenger facility fee and by the eligible agency imposing the fee.

(2) The Secretary periodically shall audit and review the use by an eligible agency of passenger facility revenue. After review and a public hearing, the Secretary may end any part of the authority of the agency to impose a passenger facility fee to the extent the Secretary decides that the revenue is not being used as provided in this section.

(3) The Secretary may set off amounts necessary to ensure compliance with this section against amounts otherwise payable to an eligible agency under subchapter I of chapter 471 of this title if the Secretary decides a passenger facility fee is excessive or that passenger facility revenue is not being used as provided in this section.

(i) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations—

(1) may prescribe the time and form by which a passenger facility fee takes effect; and

(2) shall—

(A) require an air carrier or foreign air carrier and its agent to collect a passenger facility fee that an eligible agency imposes under this section;

(B) establish procedures for handling and remitting money collected;

(C) ensure that the money, less a uniform amount the Secretary determines reflects the average necessary and reasonable expenses (net of interest accruing to the carrier and agent after collection and before remittance) incurred in collecting and handling the fee, is paid promptly to the eligible agency for which they are collected; and

(D) require that the amount collected for any air transportation be noted on the ticket for that air transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1113; Pub. L. 103–305, title II, §§ 203, 204(a)(1), (b), Aug. 23, 1994, 108 Stat. 1582, 1583.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40117(a)(1) ..	49 App.:1513(e)(15)(A), (B), (D).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(e)(1)–(3), (5)–(15); added Nov. 5, 1990, Pub. L. 101–508, § 9110(2), 104 Stat. 1388–357.
40117(a)(2) ..	(no source).	
40117(a)(3) ..	49 App.:1513(e)(15)(C).	
40117(a)(4), (5).	(no source).	
40117(b)(1) ..	49 App.:1513(e)(1).	
40117(b)(2) ..	49 App.:1513(e)(8) (1st sentence).	
40117(b)(3) ..	49 App.:1513(e)(6) (1st sentence).	
40117(c)(1), (2).	49 App.:1513(e)(11)(A)–(C).	
40117(c)(3) ..	49 App.:1513(e)(11)(D), (E) (last sentence).	
40117(d)	49 App.:1513(e)(2), (5).	
40117(e)(1)(A).	49 App.:1513(e)(11)(E) (1st sentence).	
40117(e)(1)(B).	49 App.:1513(e)(13).	
40117(e)(2)(A).	49 App.:1513(e)(6) (last sentence).	
40117(e)(2)(B).	49 App.:1513(e)(3).	
40117(e)(2)(C).	49 App.:1513(e)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(e)(4); added Nov. 5, 1990, Pub. L. 101–508, § 9110(2), 104 Stat. 1388–357; Oct. 31, 1992, Pub. L. 102–581, § 105, 106 Stat. 4877.
40117(f)(1) ...	49 App.:1513(e)(8) (last sentence).	
40117(f)(2), (3).	49 App.:1513(e)(9).	
40117(g)	49 App.:1513(e)(7).	
40117(h)	49 App.:1513(e)(12).	
40117(i)	49 App.:1513(e)(10), (14).	

In subsection (a), before clause (1), the text of 49 App.:1513(e)(15)(A) is omitted for clarity and because the terms ''air carrier'' and ''foreign air carrier'' are used the first time they appear in each subsection. The text of 49 App.:1513(e)(15)(D) is omitted because the complete name of the Secretary of Transportation is used the first time the term appears in this section. Clauses (2), (4), and (5) are added to avoid repeating the source provisions throughout this section. In clause (3)(D), the words ''without regard to'' are omitted as surplus.

In subsection (b)(1), the words ''bonds and other'' are omitted as surplus.

In subsection (b)(2), the word ''limit'' is omitted as being included in ''regulate''.

In subsection (d), before clause (1), the text of 49 App.:1513(e)(5) is omitted as executed. The words ''approve an application that an eligible agency has submitted under subsection (c) of this section'' are substituted for ''grant a public agency which controls a commercial service airport authority to impose a fee under this subsection'' for clarity.

In subsection (e)(1)(B), the words ''and conditions'' are omitted as being included in ''terms''.

Subsection (e)(2)(A) is substituted for 49 App.:1513(e)(6) (last sentence) to eliminate unnecessary words.

In subsection (e)(2)(B), the words ''a public agency which controls any other airport'', ''If a passenger of an air carrier is being provided air service'', and ''with respect to such air service'' are omitted as surplus.

In subsection (f)(3), the words ''financed with'' are substituted for ''carried out through the use of'' for consistency in this section and to eliminate unnecessary words.

In subsection (g), the word ''price'' is substituted for ''rate, fee, or charge'' and ''rates, fees, and charges'' to eliminate unnecessary words.

In subsection (g)(2), the words ''Except as provided by subparagraph (C)'' and ''by means of depreciation, am-

ortization, or any other method'' are omitted as surplus.

In subsection (h)(1), the word ''agent'' is substituted for ''agency'' to correct an error in the source provisions.

In subsection (i), before clause (1), the words ''Not later than May 4, 1991'' are omitted as obsolete.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(3)(F), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Clean Air Act, referred to in subsec. (a)(3)(F), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (a)(3)(F), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

AMENDMENTS

1994—Subsec. (a)(3)(F). Pub. L. 103–305, § 203, added subpar. (F).

Subsec. (d)(3). Pub. L. 103–305, § 204(b), added par. (3).

Subsec. (e)(2)(D). Pub. L. 103–305, § 204(a)(1), added subpar. (D).

LIMITATION ON STATUTORY CONSTRUCTION OF SUBSECTION (e)(2)(D)

Section 204(a)(2) of Pub. L. 103–305 provided that: ''The amendment made by paragraph (1) [amending this section] shall not be construed as requiring any person to refund any fee paid before the date of the enactment of this Act [Aug. 23, 1994].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40116, 46301, 46316, 47111, 47114, 47524, 47526 of this title.

§ 40118. Government-financed air transportation

(a) TRANSPORTATION BY AIR CARRIERS HOLDING CERTIFICATES.—A department, agency, or instrumentality of the United States Government shall take necessary steps to ensure that the transportation of passengers and property by air is provided by an air carrier holding a certificate under section 41102 of this title if—

(1) the department, agency, or instrumentality—

(A) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government; or

(B) provides the transportation to or for a foreign country or international or other organization without reimbursement;

(2) the transportation is authorized by the certificate or by regulation or exemption of the Secretary of Transportation; and

(3) the air carrier is—

(A) available, if the transportation is between a place in the United States and a place outside the United States; or

(B) reasonably available, if the transportation is between 2 places outside the United States.

(b) TRANSPORTATION BY FOREIGN AIR CARRIERS.—This section does not preclude the transportation of passengers and property by a foreign air carrier if the transportation is provided under a bilateral or multilateral air transportation agreement to which the Government and the government of a foreign country are parties if the agreement—

(1) is consistent with the goals for international aviation policy of section 40101(e) of this title; and

(2) provides for the exchange of rights or benefits of similar magnitude.

(c) PROOF.—The Comptroller General shall allow the expenditure of an appropriation for transportation in violation of this section only when satisfactory proof is presented showing the necessity for the transportation.

(d) TRANSPORTATION BY FOREIGN AIR CARRIERS.—Notwithstanding subsections (a) and (c) of this section, any amount appropriated to the Secretary of State, the Director of the United States Information Agency, the Director of the United States International Development Cooperation Agency, or the Director of the Arms Control and Disarmament Agency may be used to pay for the transportation of an officer or employee of the Department of State or one of those agencies, a dependent of the officer or employee, and accompanying baggage, by a foreign air carrier when the transportation is between 2 places outside the United States.

(e) RELATIONSHIP TO OTHER LAWS.—This section does not affect the application of the antidiscrimination provisions of this part.

(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

(2) In paragraph (1), the term ''commercial item'' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1116; Pub. L. 103–355, title VIII, § 8301(h), Oct. 13, 1994, 108 Stat. 3398.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40118(a)	49 App.:1517(a), (b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1117; added Jan. 3, 1975, Pub. L. 93–623, § 5(a), 88 Stat. 2104; restated Feb. 15, 1980, Pub. L. 96–192, § 21, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
40118(b)	49 App.:1517(c).	
40118(c)	49 App.:1517(d) (1st sentence).	
40118(d)	49 App.:1518.	Oct. 7, 1978, Pub. L. 95–426, § 706, 92 Stat. 992.
40118(e)	49 App.:1517(d) (last sentence).	

In this section, the word ''passengers'' is substituted for ''persons'' for consistency in the revised title. The words ''(and their personal effects)'' are omitted as being included in ''property''.

In subsection (a), before clause (1), the words ''Except as provided in subsection (c) of this section'' are omitted as surplus. The words ''department, agency, or instrumentality'' are substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code. The words ''or agencies'' are omitted because of 1:1. In clause (1), before subclause (A), the words ''executive'' and ''other'' are omitted as surplus. In subclause (A), the words ''procure, contract for, or otherwise'' are omitted as surplus. The words ''for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government'' are substituted for ''in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise'' for clarity and to eliminate unnecessary words. In subclause (B), the word ''country'' is substituted for ''nation'' for consistency in the revised title and with other titles of the Code. The words ''international or other organization'' are substituted for ''international agency, or other organization, of whatever nationality'' to eliminate unnecessary words. The words ''provisions for'' are omitted as surplus.

In subsection (b), before clause (1), the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the Code. The words ''or governments'' are omitted because of 1:1.

In subsection (c), the words ''for payment for personnel or cargo transportation'' are omitted as surplus.

In subsection (d), the words ''the limitations established by'' are omitted as surplus. The words ''after October 7, 1978'' are omitted as executed. The words ''Secretary of State'' are substituted for ''Department of State'' because of 22:2651. The words ''Director of the United States Information Agency'' are substituted for ''International Communication Agency'' in section 706 of the Act of October 7, 1978 (Public Law 95–426, 92 Stat. 992), because of section 2 of Reorganization Plan No. 2 of 1977 (eff. July 1, 1978, 91 Stat. 1636) and section 303(b) of the United States Information Agency Authorization Act, Fiscals Year 1982 and 1983 (Public Law 97–241, 96 Stat. 291). The words ''Director of the United States International Development Cooperation Agency'' are substituted for ''Agency for International Development (or any successor agency)'' in section 706 because of section 6(a)(3) of Reorganization Plan No. 2 of 1979 (eff. October 1, 1979, 93 Stat. 1379). The words ''a foreign air carrier'' are substituted for ''air carriers which do not hold certificates under section 1371 of this Appendix'' for clarity. See H. Conf. Rept. No. 95–1535, 95th Cong., 2d Sess., p. 45 (1978).

In subsection (e), the word ''affect'' is substituted for ''prevent'' for clarity. The words ''to such traffic'' are omitted as surplus.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–355 added subsec. (f).

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.

§ 40119. Security and research and development activities

(a) GENERAL REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall conduct research (including behavioral research) and development activities appropriate to develop, modify, test, and evaluate a system, procedure, facility, or device to protect passengers and property against acts of criminal violence and aircraft piracy.

(b) DISCLOSURE.—(1) Notwithstanding section 552 of title 5, the Administrator shall prescribe regulations prohibiting disclosure of information obtained or developed in carrying out security or research and development activities under section 44501(a) or (c), 44502(a)(1) or (3), (b), or (c), 44504, 44505, 44507, 44508, 44511, 44512, 44513, 44901, 44903(a), (b), (c), or (e), 44905, 44912, 44935, 44936, or 44938(a) or (b) of this title if the Administrator decides disclosing the information would—

(A) be an unwarranted invasion of personal privacy;

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

(C) be detrimental to the safety of passengers in air transportation.

(2) Paragraph (1) of this subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(c) TRANSFERS OF DUTIES AND POWERS PROHIBITED.—Except as otherwise provided by law, the Administrator may not transfer a duty or power under this section to another department, agency, or instrumentality of the United States Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1117.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40119(a)	49 App.:1357(d)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(d)(1), (e)(1); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 417.
40119(b)	49 App.:1357(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(d)(2); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 417; Nov. 5, 1990, Pub. L. 101–508, § 9121, 104 Stat. 1388–370.
40119(c)	49 App.:1357(e)(1).	

In this section, the word ''Administrator'' in section 316(d) and (e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731) is retained on authority of 49:106(g).

In subsection (a), the words ''as he may deem'' and ''aboard aircraft in air transportation or intrastate air transportation'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''relating to freedom of information'', ''as he may deem necessary'', and ''in the conduct of research and development activities'' are omitted as surplus. In clause (A), the words ''(including, but not limited to, information contained in any personnel, medical, or similar file)'' are omitted as surplus. In clause (B), the words ''obtained from any person'' are omitted as surplus. In clause (C), the word ''traveling'' is omitted as surplus.

In subsection (b)(2), the word ''duly'' is omitted as surplus. The words ''to have the information'' are added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 44501, 44508 of this title.

§ 40120. Relationship to other laws

(a) NONAPPLICATION.—Except as provided in the International Navigational Rules Act of 1977

(33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

(b) EXTENDING APPLICATION OUTSIDE UNITED STATES.—The President may extend (in the way and for periods the President considers necessary) the application of this part to outside the United States when—

(1) an international arrangement gives the United States Government authority to make the extension; and

(2) the President decides the extension is in the national interest.

(c) ADDITIONAL REMEDIES.—A remedy under this part is in addition to any other remedies provided by law.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1117.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40120(a)	49 App.:1509(a).	Aug. 23, 1958, Pub. L. 85–726, §§ 1106, 1109(a), 1110, 72 Stat. 798, 799, 800.
40120(b)	49 App.:1510.	
40120(c)	49 App.:1506.	

In subsection (a), the words ''International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.)'' are substituted for ''sections 143 to 147d of title 33'' because those sections were repealed by section 3 of the Act of September 24, 1963 (Public Law 88–131, 77 Stat. 194), and replaced by 33:ch. 21. Chapter 21 was repealed by section 10 of the International Navigational Rules Act of 1977 (Public Law 95–75, 91 Stat. 311) and replaced by 33:1601–1608. The words ''including any definition of 'vessel' or 'vehicle' found therein'' and ''be construed to'' are omitted as surplus.

In subsection (b), before clause (1), the words ''to the extent'', ''of time'', and ''any areas of land or water'' are omitted as surplus. The words ''and the overlying airspace thereof'' are omitted as being included in ''outside the United States''. In clause (1), the words ''treaty, agreement or other lawful'' and ''necessary legal'' are omitted as surplus.

Subsection (c) is substituted for 49 App.:1506 to eliminate unnecessary words and for clarity and consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

The International Navigational Rules Act of 1977, referred to in subsec. (a), is Pub. L. 95–75, July 27, 1977, 91 Stat. 308, as amended, which is classified principally to chapter 30 (§ 1601 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 33 and Tables.

EX. ORD. NO. 10854. EXTENSION OF APPLICATION

Ex. Ord. No. 10854, Nov. 27, 1959, 24 F.R. 9565, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, provided:

The application of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C.A. § 1301 et seq. [see 49 U.S.C. 40101 et seq.]), to the extent necessary to permit the Secretary of Transportation to accomplish the purposes and objectives of Titles III [former 49 U.S.C. 1341 et seq., see Disposition Table at beginning of this title] and XII [see 49 U.S.C. 40103(b)(3), 46307] thereof, is hereby extended to those areas of land or water outside the United States and the overlying airspace thereof over or in which the Federal Government of the United States, under international treaty, agreement or other lawful arrangement, has appropriate jurisdiction or control: *Provided*, That the Secretary of Transportation, prior to taking any action under the authority hereby conferred, shall first consult with the Secretary of State on matters affecting foreign relations, and with the Secretary of Defense on matters affecting national-defense interests, and shall not take any action which the Secretary of State determines to be in conflict with any international treaty or agreement to which the United States is a party, or to be inconsistent with the successful conduct of the foreign relations of the United States, or which the Secretary of Defense determines to be inconsistent with the requirements of national defense.

SUBPART II—ECONOMIC REGULATION

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 40101, 40102, 40109, 40114, 44712 of this title; title 2 section 451.

CHAPTER 411—AIR CARRIER CERTIFICATES

Sec.
41101. Requirement for a certificate.
41102. General, temporary, and charter air transportation certificates of air carriers.
41103. All-cargo air transportation certificates of air carriers.
41104. Additional limitations and requirements of charter air carriers.
41105. Transfers of certificates.
41106. Airlift service.
41107. Transportation of mail.
41108. Applications for certificates.
41109. Terms of certificates.
41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates.
41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates.
41112. Liability insurance and financial responsibility.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 40105, 40109, 41907, 46301 of this title; title 39 section 5402.

§ 41101. Requirement for a certificate

(a) GENERAL.—Except as provided in this chapter or another law—

(1) an air carrier may provide air transportation only if the air carrier holds a certificate issued under this chapter authorizing the air transportation;

(2) a charter air carrier may provide charter air transportation only if the charter air carrier holds a certificate issued under this chapter authorizing the charter air transportation; and

(3) an air carrier may provide all-cargo air transportation only if the air carrier holds a certificate issued under this chapter authorizing the all-cargo air transportation.

(b) THROUGH SERVICE AND JOINT TRANSPORTATION.—A citizen of the United States providing transportation in a State of passengers or property as a common carrier for compensation with aircraft capable of carrying at least 30 passengers, under authority granted by the appropriate State authority—

(1) may provide transportation for passengers and property that includes through service by the citizen over its routes in the

State and in air transportation by an air carrier or foreign air carrier; and

(2) subject to sections 41309 and 42111 of this title, may make an agreement with an air carrier or foreign air carrier to provide the joint transportation.

(c) PROPRIETARY OR EXCLUSIVE RIGHT NOT CONFERRED.—A certificate issued under this chapter does not confer a proprietary or exclusive right to use airspace, an airway of the United States, or an air navigation facility.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1118.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41101(a)(1) ..	49 App.:1371(a).	Aug. 23, 1958, Pub. L. 85–726, § 401(a), (i), 72 Stat. 754, 756.
41101(a)(2) ..	49 App.:1301(14) (related to certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 101(14) (related to certificate); added Oct. 24, 1978, Pub. L. 95–504, § 2(a)(1), 92 Stat. 1705.
41101(a)(3) ..	(no source).	
41101(b)	49 App.:1371(d)(4)(A)(i), (ii) (related to joint services).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(4)(A)(i), (ii) (related to joint services); added Nov. 9, 1977, Pub. L. 95–163, § 9, 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, § 9, 92 Stat. 1713.
41101(c)	49 App.:1371(i).	

In subsections (a)(2) and (c), the words ''issued under this chapter'' are added for clarity.

In subsection (a), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title. The words before clause (1) are added to inform the reader that other provisions of the chapter and other laws qualify the requirement of being licensed by the Secretary of Transportation. In clause (1), the word ''holds'' is substituted for ''there is in force'' to eliminate unnecessary words. The words ''under this chapter'' are substituted for ''by the Board'' for clarity. In clause (2), the words ''of public convenience and necessity'' are omitted as surplus. Clause (3) is included to inform the reader at the beginning of this chapter about all of the types of certificates and permits that the Secretary may issue under this subchapter.

In subsection (b), the word ''passengers'' is substituted for ''persons'' for consistency in the revised title. Before clause (1), the words ''Notwithstanding any other provision of this chapter'' are omitted as surplus. The words ''providing transportation'' are substituted for ''undertakes . . . the carriage of'' for consistency in the revised title. The words ''or hire'' are omitted as surplus and for consistency. The words ''for such carriage within such State'' are omitted as surplus. In clause (1), the words ''through service'' are substituted for ''transportation'' the first time it appears for clarity. In clause (2), the words ''the requirements of'' and ''for such through services'' are omitted as surplus.

In subsection (c), the word ''property'' is omitted as surplus. The words ''landing area'' are omitted because they are included in the definition of ''air navigation facility'' in section 40102(a) of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41103, 41503, 46108, 47102 of this title.

§ 41102. General, temporary, and charter air transportation certificates of air carriers

(a) ISSUANCE.—The Secretary of Transportation may issue a certificate of public convenience and necessity to a citizen of the United States authorizing the citizen to provide any part of the following air transportation the citizen has applied for under section 41108 of this title:

(1) air transportation as an air carrier.

(2) temporary air transportation as an air carrier for a limited period.

(3) charter air transportation as a charter air carrier.

(b) FINDINGS REQUIRED FOR ISSUANCE.—(1) Before issuing a certificate under subsection (a) of this section, the Secretary must find that the citizen is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) In addition to the findings under paragraph (1) of this subsection, the Secretary, before issuing a certificate under subsection (a) of this section for foreign air transportation, must find that the transportation is consistent with the public convenience and necessity.

(c) TEMPORARY CERTIFICATES.—The Secretary may issue a certificate under subsection (a) of this section for interstate air transportation (except the transportation of passengers) or foreign air transportation for a temporary period of time (whether the application is for permanent or temporary authority) when the Secretary decides that a test period is desirable—

(1) to decide if the projected services, efficiencies, methods, and prices and the projected results will materialize and remain for a sustained period of time; or

(2) to evaluate the new transportation.

(d) FOREIGN AIR TRANSPORTATION.—The Secretary shall submit each decision authorizing the provision of foreign air transportation to the President under section 41307 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1119.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41102(a)	49 App.:1371(d)(1) (words before 1st comma and after semicolon), (2) (1st–32d words).	Aug. 23, 1958, Pub. L. 85–726, § 401(d)(1), (2), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, § 8, 92 Stat. 1712; restated Feb. 15, 1980, Pub. L. 96–192, § 4, 94 Stat. 37.
	49 App.:1371(d)(3) (words before 6th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(3); added July 10, 1962, Pub. L. 87–528, § 2, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95–504, § 8, 92 Stat. 1712; restated Feb. 15, 1980, Pub. L. 96–192, § 4, 94 Stat. 37.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41102(b)(1) ..	49 App.:1371(d)(1) (words between 1st and last commas), (2) (42d–last words), (3) (words after 7th comma).	
	49 App.:1551(b)(1)(E).	
41102(b)(2) ..	49 App.:1371(d)(1) (words between last comma and semicolon), (2) (33d–41st words), (3) (words between 6th and 7th commas).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(a)(1)(A).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(A), (B); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	
41102(c)	49 App.:1371(d)(8) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(8) (1st sentence); added Oct. 24, 1978, Pub. L. 95–504, § 13, 92 Stat. 1718.
	49 App.:1551(a)(1)(B), (b)(1)(E).	
41102(d)	(no source).	

In this section, the words ''citizen of the United States'' and ''citizen'' are substituted for ''applicant'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title, and only an air carrier may be a ''charter air carrier'' as defined in section 40102(a). The word ''provide'' is substituted for ''perform'' for consistency in the revised title.

In subsection (a), before clause (1), the words ''of public convenience and necessity'' are added for clarity. The words ''any part of'' are substituted for ''the whole or any part of'' to eliminate unnecessary words. In clauses (2) and (3), the words ''In the case of'' are omitted as surplus. In clause (3), the words ''for such periods'' are omitted as surplus.

In subsection (b)(1), the word ''comply'' is substituted for ''conform'' for consistency in the revised title. The words ''properly'' and ''requirements'' are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''.

In subsection (b)(2), the words ''foreign air transportation'' are added because 49 App.:1551(a)(1)(A) provides that 49 App.:1371(d)(1)–(3) no longer applies to interstate or overseas transportation of persons. After January 1, 1985, other interstate and overseas air transportation and the domestic air transportation of mail do not require a certificate of public convenience and necessity. See H. Rept. 98–793, 98th Cong., 2d Sess., p.10 (1984).

In subsection (c), before clause (1), the words ''issue a certificate'' are substituted for ''grant an application'' for consistency in this chapter. The words ''for interstate air transportation (except the transportation of passengers) or foreign air transportation'' are added for clarity and consistency. The word ''only'' is omitted as surplus. In clause (1), the word ''prices'' is substituted for ''rates, fares, charges'' because of the definition of ''price'' in section 40102(a) of the revised title. The words ''in fact'' are omitted as surplus. In clause (2), the words ''to assess the impact of the new services on the national air route structure, or otherwise'' are omitted as surplus.

Subsection (d) is added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 40118, 41104, 41105, 41106, 41107, 41108, 41109, 41110, 41111, 41112, 41307, 41312, 41505, 41709, 41713, 42101, 42103, 44901, 44915, 46301, 46316, 47102 of this title; title 29 section 1301; title 39 section 5402.

§ 41103. All-cargo air transportation certificates of air carriers

(a) APPLICATIONS.—A citizen of the United States may apply to the Secretary of Transportation for a certificate authorizing the citizen to provide all-cargo air transportation. The application must contain information and be in the form the Secretary by regulation requires.

(b) ISSUANCE.—Not later than 180 days after an application for a certificate is filed under this section, the Secretary shall issue the certificate to a citizen of the United States authorizing the citizen, as an air carrier, to provide any part of the all-cargo air transportation applied for unless the Secretary finds that the citizen is not fit, willing, and able to provide the all-cargo air transportation to be authorized by the certificate and to comply with regulations of the Secretary.

(c) TERMS.—The Secretary may impose terms the Secretary considers necessary when issuing a certificate under this section. However, the Secretary may not impose terms that restrict the places served or prices charged by the holder of the certificate.

(d) EXEMPTIONS AND STATUS.—A citizen issued a certificate under this section—

(1) is exempt in providing the transportation under the certificate from the requirements of—

(A) section 41101(a)(1) of this title and regulations or procedures prescribed under section 41101(a)(1); and

(B) other provisions of this part and regulations or procedures prescribed under those provisions when the Secretary finds under regulations of the Secretary that the exemption is appropriate; and

(2) is an air carrier under this part except to the extent the carrier is exempt under this section from a requirement of this part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1119; Pub. L. 103–429, § 6(49), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41103(a)	49 App.:1388(a)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(a)(4); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95–245, § 1, 92 Stat. 156.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41103(b)	49 App.:1388(b)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(b)(1)(B); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95–245, § 3, 92 Stat. 156.
	49 App.:1551(b)(1)(E).	
41103(c)	49 App.:1388(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(b)(2), (c), (d); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285.
	49 App.:1551(b)(1)(E).	
41103(d)(1) ..	49 App.:1388(c).	
	49 App.:1551(b)(1)(E).	
41103(d)(2) ..	49 App.:1388(d).	

In subsection (a), the words ''After the three hundred and sixty-fifth day which begins after November 9, 1977'' are omitted as executed. The words ''under this section'' are omitted as surplus. The words ''authorizing the citizen'' are added for clarity and consistency in this chapter.

In subsection (b), the words ''pursuant to paragraph (4) of subsection (a) of this section'' are omitted as surplus. The word ''citizen'' is substituted for ''applicant'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title and only an air carrier can provide all–cargo air transportation. The words ''to

provide'' are added for clarity and consistency in this subchapter. The word ''rules'' is omitted as being synonymous with ''regulations''. The word ''promulgated'' is omitted as surplus.

In subsection (c), the words ''reasonable'', ''and limitations'', and ''and conditions'' are omitted as surplus. The word ''places'' is substituted for ''points'' for consistency in the revised title.

PUB. L. 103–429

This amends 49:41103(a) to make the term consistent throughout subtitle VII of title 49.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429 substituted ''all-cargo'' for ''all-property''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41110, 41709, 46301, 46316 of this title.

§ 41104. Additional limitations and requirements of charter air carriers

(a) RESTRICTIONS.—The Secretary of Transportation may prescribe a regulation or issue an order restricting the marketability, flexibility, accessibility, or variety of charter air transportation provided under a certificate issued under section 41102 of this title only to the extent required by the public interest. A regulation prescribed or order issued under this subsection may not be more restrictive than a regulation related to charter air transportation that was in effect on October 1, 1978.

(b) ALASKA.—An air carrier holding a certificate issued under section 41102 of this title may provide charter air transportation between places in Alaska only to the extent the Secretary decides the transportation is required by public convenience and necessity. The Secretary may make that decision when issuing, amending, or modifying the certificate. This subsection does not apply to a certificate issued under section 41102 to a citizen of the United States who, before July 1, 1977—

(1) maintained a principal place of business in Alaska; and

(2) conducted air transport operations between places in Alaska with aircraft with a certificate for gross takeoff weight of more than 40,000 pounds.

(c) SUSPENSIONS.—(1) The Secretary shall suspend for not more than 30 days any part of the certificate of a charter air carrier if the Secretary decides that the failure of the carrier to comply with the requirements described in sections 41110(e) and 41112 of this title, or a regulation or order of the Secretary under section 41110(e) or 41112, requires immediate suspension in the interest of the rights, welfare, or safety of the public. The Secretary may act under this paragraph without notice or a hearing.

(2) The Secretary shall begin immediately a hearing to decide if the certificate referred to in paragraph (1) of this subsection should be amended, modified, suspended, or revoked. Until the hearing is completed, the Secretary may suspend the certificate for additional periods totaling not more than 60 days. If the Secretary decides that the carrier is complying with the requirements described in sections 41110(e) and 41112 of this title and regulations and orders under sections 41110(e) and 41112, the Secretary immediately may end the suspension period and proceeding begun under this subsection. However, the Secretary is not prevented from imposing a civil penalty on the carrier for violating the requirements described in section 41110(e) or 41112 or a regulation or order under section 41110(e) or 41112.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1120.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41104(a)	49 App.:1371(n)(2), (4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(2)–(4); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 144; restated Oct. 24, 1978, Pub. L. 95–504, § 20(b), 92 Stat. 1721.
	49 App.:1551(a) (1)(E) (related to 49 App.:1371(n) (4)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(E) (related to § 401(n)(4)); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
	49 App.:1551(b) (1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41104(b)	49 App.:1371(n)(3). 49 App.:1551(b) (1)(E).	
41104(c)	49 App.:1371(n)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(5); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 145; Oct. 24, 1978, Pub. L. 95–504, § 20(c), 92 Stat. 1722.
	49 App.:1371(n)(6).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(6); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 145.
	49 App.:1551(b) (1)(E).	

In subsection (a), the word ''rule'' is omitted as being synonymous with ''regulation''. The words ''charter air transportation'' are substituted for ''charter trips'' for consistency in this part. The text of 49 App.:1371(n)(4) and 1551(n)(1)(E) (related to 49 App.:1371(n)(4)) is omitted because inclusive tour charters have been abolished and charter air carriers have received authority to sell public charter flights directly to the public.

In subsection (b), before clause (1), the words ''Notwithstanding any other provision of this subchapter'' are omitted as surplus. The words ''An air carrier holding'' are added for clarity. The words ''State of'' are omitted as surplus. The word ''modifying'' is added for consistency in the revised title. The words ''citizen of the United States'' are substituted for ''person'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title.

In subsection (c), the words ''the requirements described in'' are added for clarity.

In subsection (c)(1), the text of 49 App.:1371(n)(6) is omitted as surplus because of 49:322(a).

In subsection (c)(2), the word ''amended'' is added for consistency in the revised title.

§ 41105. Transfers of certificates

(a) GENERAL.—A certificate issued under section 41102 of this title may be transferred only when the Secretary of Transportation approves the transfer as being consistent with the public interest.

(b) CERTIFICATION TO CONGRESS.—When a certificate is transferred, the Secretary shall cer-

tify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives that the transfer is consistent with the public interest. The Secretary shall include with the certification a report analyzing the effects of the transfer on—

(1) the viability of each carrier involved in the transfer;

(2) competition in the domestic airline industry; and

(3) the trade position of the United States in the international air transportation market.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1121.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41105(a)	49 App.:1371(h)(1).	Aug. 23, 1958, Pub. L. 85–726, § 401(h)(1), 72 Stat. 756; Nov. 5, 1990, Pub. L. 101–508, § 9127(1), 104 Stat. 1388–371.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41105(b)	49 App.:1371(h)(2), (3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(h)(2), (3); added Nov. 5, 1990, Pub. L. 101–508, § 9127(2), 104 Stat. 1388–371.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives changed to Committee on Transportation and Infrastructure of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41111 of this title.

§ 41106. Airlift service

(a) GENERAL.—(1) Except as provided in subsection (b) of this section, the transportation of passengers or property by transport category aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract of at least 31 days for airlift service in the United States may be provided only by an air carrier that—

(A) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(B) holds a certificate issued under section 41102 of this title.

(2) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of this title to provide airlift service.

(b) EXCEPTION.—When the Secretary of Defense decides that no air carrier holding a certificate under section 41102 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1121.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41106	49 App.:1371(*o*).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(*o*); added July 12, 1976, Pub. L. 94–353, § 18(a), 90 Stat. 883.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the word ''passengers'' is substituted for ''persons'' for consistency in the revised title. The words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:113(a). The words ''an air carrier'' are substituted for ''carriers'' for clarity.

In subsection (b), the words ''to provide the service'' are added for clarity.

§ 41107. Transportation of mail

When the United States Postal Service finds that the needs of the Postal Service require the transportation of mail by aircraft in foreign air transportation or between places in Alaska, in addition to the transportation of mail authorized under certificates in effect, the Postal Service shall certify that finding to the Secretary of Transportation with a statement about the additional transportation and facilities necessary to provide the additional transportation. A copy of each certification and statement shall be posted for at least 20 days in the office of the Secretary. After notice and an opportunity for a hearing, the Secretary shall issue a new certificate under section 41102 of this title, or amend or modify an existing certificate under section 41110(a)(2)(A) of this title, to provide the additional transportation and facilities if the Secretary finds the additional transportation is required by the public convenience and necessity.

(Pub. L. 103–272, §§ 1(e), 4(k)(1), July 5, 1994, 108 Stat. 1121, 1370.)

AMENDMENT OF SECTION

Pub. L. 103–272, § 4(k)(1), July 5, 1994, 108 Stat. 1370, provided that, effective Jan. 1, 1999, this section is amended by substituting ''transportation'' for ''transportation or between places in Alaska''.

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, § 1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41107	49 App.:1371(m).	Aug. 23, 1958, Pub. L. 85–726, § 401(m), 72 Stat. 757.
	49 App.:1551(a)(4)(A) (related to 49 App.:1371(m)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(A) (related to § 401(m)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.

The words ''from time to time'' are omitted as surplus. The words ''United States Postal Service'' and ''Postal Service'' are substituted for ''Postmaster General'' in section 401(m) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 757) because of sections 4(a) and 6(*o*) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773, 783). The words ''in foreign air transportation or between places in Alaska'' are substituted for ''between any points within the United States or between the United States and foreign countries'' for consistency in the revised title and because 49 App.:1551(a)(4)(A) provides that 49 App.:1371(m) no

longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). In addition, Congress did not intend to maintain the regulation of domestic air transportation of mail. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The word ''currently'' is omitted as surplus. The words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code. The words ''or certificates'' are omitted as surplus because of 1:1. The word ''modify'' is added for consistency in the revised title.

PUB. L. 103–272, § 4(k)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41107	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, § 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4(k) of Pub. L. 103–272 provided that the amendments made by that section [amending this section and sections 41901, 41902, and 41903 of this title] are effective Jan. 1, 1999.

§ 41108. Applications for certificates

(a) FORM, CONTENTS, AND PROOF OF SERVICE.—To be issued a certificate of public convenience and necessity under section 41102 of this title, a citizen of the United States must apply to the Secretary of Transportation. The application must—

(1) be in the form and contain information required by regulations of the Secretary; and

(2) be accompanied by proof of service on interested persons as required by regulations of the Secretary and on each community that may be affected by the issuance of the certificate.

(b) NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the certificate. Not later than 90 days after the application is filed, the Secretary shall—

(A) provide an opportunity for a public hearing on the application;

(B) begin the procedure under section 41111 of this title; or

(C) dismiss the application on its merits.

(2) An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection is a final order and may be reviewed judicially under section 46110 of this title.

(3) If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection, an initial or recommended decision shall be issued not later than 150 days after the date the Secretary provides the opportunity. The Secretary shall issue a final order on the application not later than 90 days after the decision is issued. However, if the Secretary does not act within the 90-day period, the initial or recommended decision on an application to provide—

(A) interstate air transportation is a final order and may be reviewed judicially under section 46110 of this title; and

(B) foreign air transportation shall be submitted to the President under section 41307 of this title.

(4) If the Secretary acts under paragraph (1)(B) of this subsection, the Secretary shall issue a final order on the application not later than 180 days after beginning the procedure on the application.

(5) If a citizen applying for a certificate does not meet the procedural schedule adopted by the Secretary in a proceeding, the Secretary may extend the period for acting under paragraphs (3) and (4) of this subsection by a period equal to the period of delay caused by the citizen. In addition to an extension under this paragraph, an initial or recommended decision under paragraph (3) of this subsection may be delayed for not more than 30 days in extraordinary circumstances.

(c) PROOF REQUIREMENTS.—(1) A citizen applying for a certificate must prove that the citizen is fit, willing, and able to provide the transportation referred to in section 41102 of this title and to comply with this part.

(2) A person opposing a citizen applying for a certificate must prove that the transportation referred to in section 41102(b)(2) of this title is not consistent with the public convenience and necessity. The transportation is deemed to be consistent with the public convenience and necessity unless the Secretary finds, by a preponderance of the evidence, that the transportation is not consistent with the public convenience and necessity.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1121.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41108(a)	49 App.:1371(b).	Aug. 23, 1958, Pub. L. 85–726, § 401(b), 72 Stat. 754; Oct. 24, 1978, Pub. L. 95–504, § 6, 92 Stat. 1710.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41108(b)	49 App.:1371(c).	Aug. 23, 1958, Pub. L. 85–726, 401(c), 72 Stat. 754; restated Oct. 24, 1978, Pub. L. 95–504, §7(a), 92 Stat. 1711.
	49 App.:1551(b)(1)(E).	
41108(c)	49 App.:1371(d)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d)(9); added Oct. 24, 1978, Pub. L. 95–504, §14, 92 Stat. 1719.
	49 App.:1551(b)(1)(E).	

In subsection (a), the words ''of public convenience and necessity under section 41102 of this title'' are added for clarity.

In subsection (b)(1), before clause (A), the words ''give due notice thereof to the public by'' are omitted as surplus. The word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The words ''requested by such application'' are omitted as surplus. Clause (A) is substituted for 49 App.:1371(c)(1)(A) for clarity and consistency. Clause (B) is substituted for 49 App.:1371(c)(1)(B) to eliminate unnecessary words.

In subsection (b)(2), the words ''An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection'' are substituted for ''Any order of dismissal of an application issued by the Board without setting such application for a hearing or beginning to make a determination with respect to such application under such simplified procedures'' to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words ''If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection'' are substituted for ''If the Board determines that any application should be set for a public hearing under clause (A) of the second sentence of paragraph (1) of this subsection'' to eliminate unnecessary words. The words ''provides the opportunity'' are substituted for ''of such determination'' for clarity. The words ''for a certificate'' are omitted as surplus. The words ''to provide'' are substituted for ''to engage in'' for consistency in the revised title.

In subsection (b)(4), the words ''If the Secretary acts under paragraph (1)(B) of this subsection'' are added for clarity. The words ''after beginning the procedure on the application'' are substituted for ''after the Board begins to make a determination with respect to an application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section'' to eliminate unnecessary words.

In subsection (b)(5), the word ''particular'' is omitted as surplus. The words ''by order'' are omitted as surplus because of 5:ch. 5, subch. II.

In subsection (c)(1), the words ''In any determination as to whether or not'' are omitted as surplus. The word ''provide'' is substituted for ''perform'' for consistency in the revised title. The word ''properly'' is omitted as surplus. The word ''comply'' is substituted for ''conform'' for consistency in the revised title.

In subsection (c)(2), the words ''In any determination as to whether'' are omitted as surplus. The reference is to section 41102(b)(2), rather than 41102(a), of the revised title to reflect the termination of authority under 49 App.:1551(a)(1)(A).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41102, 41109, 41111 of this title.

§ 41109. Terms of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title shall specify the type of transportation to be provided.

(2) The Secretary of Transportation—

(A) may prescribe terms for providing air transportation under the certificate that the Secretary finds may be required in the public interest; but

(B) may not prescribe a term preventing an air carrier from adding or changing schedules, equipment, accommodations, and facilities for providing the authorized transportation to satisfy business development and public demand.

(3) A certificate issued under section 41102 of this title to provide foreign air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each general route to be followed. The Secretary shall authorize an air carrier holding a certificate to provide foreign air transportation to handle and transport mail of countries other than the United States.

(4) A certificate issued under section 41102 of this title to provide foreign charter air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each geographical area in which, or between which, the transportation may be provided.

(b) MODIFYING TERMS.—(1) An air carrier may file with the Secretary an application to modify any term of its certificate issued under section 41102 of this title to provide interstate or foreign air transportation. Not later than 60 days after an application is filed, the Secretary shall—

(A) provide the carrier an opportunity for an oral evidentiary hearing on the record; or

(B) begin to consider the application under section 41111 of this title.

(2) The Secretary shall modify each term the Secretary finds to be inconsistent with the criteria under section 40101(a) and (b) of this title.

(3) An application under this subsection may not be dismissed under section 41108(b)(1)(C) of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1123.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41109(a)(1) ..	49 App.:1371(e)(1) (words before semicolon).	Aug. 23, 1958, Pub. L. 85–726, §401(e)(1), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, §3, 76 Stat. 143.
	49 App.:1551(a)(1)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(1)(C); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1744.
41109(a)(2) ..	49 App.:1371(e)(1) (words after semicolon).	
	49 App.:1371(e)(4).	Aug. 23, 1958, Pub. L. 85–726, §401(e)(3), (4), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, §3, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95–504, §15(a), (b), 92 Stat. 1719.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41109(a)(3) ..	49 App.:1371(e)(2).	Aug. 23, 1958, Pub. L. 85–726, §401(e)(2), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, §3, 76 Stat. 143; Feb. 15, 1980, Pub. L. 96–192, §5, 94 Stat. 37.
	49 App.:1551(b)(1)(E).	
41109(a)(4) ..	49 App.:1371(e)(3).	
	49 App.:1551(b)(1)(E).	
41109(b)	49 App.:1371(e)(7)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(e)(7)(B); added Oct. 24, 1978, Pub. L. 95–504, §16, 92 Stat. 1720.
	49 App.:1551(b)(1)(E).	

In subsection (a)(1), the text of 49 App.:1371(e)(1) (words before semicolon related to terminal and intermediate points) is omitted as obsolete because of 49 App.:1551(a)(1)(C) and because interstate and overseas air transportation is no longer regulated. The words ''type of'' are added for clarity. The word ''provided'' is substituted for ''rendered'' for consistency in the revised title.

In subsection (a)(2), the words before clause (A) are added for clarity. Clause (A) is substituted for 49 App.:1371(e)(1) (words after semicolon) for clarity and consistency and to eliminate unnecessary words. In clause (B), the words ''may not prescribe a term preventing'' are substituted for ''No term, condition, or limitation of a certificate shall restrict the right'' for clarity and consistency. The word ''providing'' is substituted for ''performing'' for consistency in the revised title.

In subsection (a)(3) and (4), the word ''places'' is substituted for ''points'', and the word ''provide'' is substituted for ''engage in'', for consistency in the revised title. The words ''terminal and intermediate'' are omitted as surplus. The words ''between which the air carrier is authorized to provide the transportation'' are added for clarity and consistency.

In subsection (a)(3), the words ''or routes'' are omitted because of 1:1. The words ''The Secretary'' are added for clarity.

In subsection (a)(4), the words ''or areas'' are omitted because of 1:1.

In subsection (b), the words ''condition, or limitation'' are omitted as being included in ''term''.

In subsection (b)(1), before clause (A), the word ''modify'' is substituted for ''removal or modification'' to eliminate unnecessary words. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title. In clause (A), the words ''provide the carrier an opportunity'' are substituted for ''set such application'' for consistency in the revised title and with other titles of the United States Code. In clause (B), the words ''the simplified procedures established by the Board in regulations pursuant to'' are omitted as surplus.

§ 41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title is effective from the date specified in it and remains in effect until—

(A) the Secretary of Transportation suspends or revokes the certificate under this section;

(B) the end of the period the Secretary specifies for an air carrier having a certificate of temporary authority issued under section 41102(a)(2) of this title; or

(C) the Secretary certifies that transportation is no longer being provided under a certificate.

(2) On application or on the initiative of the Secretary and after notice and an opportunity for a hearing or, except as provided in paragraph (4) of this subsection, under section 41111 of this title, the Secretary may—

(A) amend, modify, or suspend any part of a certificate if the Secretary finds the public convenience and necessity require amendment, modification, or suspension; and

(B) revoke any part of a certificate if the Secretary finds that the holder of the certificate intentionally does not comply with this chapter, sections 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, a regulation or order of the Secretary under any of those provisions, or a term of its certificate.

(3) The Secretary may revoke a certificate under paragraph (2)(B) of this subsection only if the holder of the certificate does not comply, within a reasonable time the Secretary specifies, with an order to the holder requiring compliance.

(4) A certificate to provide foreign air transportation may not be amended, modified, suspended, or revoked under section 41111 of this title if the holder of the certificate requests an oral evidentiary hearing or the Secretary finds, under all the facts and circumstances, that the hearing is required in the public interest.

(b) ALL-CARGO AIR TRANSPORTATION.—The Secretary may order that a certificate issued under section 41103 of this title authorizing all-cargo air transportation is ineffective if, after notice and an opportunity for a hearing, the Secretary finds that the transportation is not provided to the minimum extent specified by the Secretary.

(c) FOREIGN AIR TRANSPORTATION.—(1) Notwithstanding subsection (a)(2)–(4) of this section, after notice and a reasonable opportunity for the affected air carrier to present its views, but without a hearing, the Secretary may suspend or revoke the authority of an air carrier to provide foreign air transportation to a place under a certificate issued under section 41102 of this title if the carrier—

(A) notifies the Secretary, under section 41734(a) of this title or a regulation of the Secretary, that it intends to suspend all transportation to that place; or

(B) does not provide regularly scheduled transportation to the place for 90 days immediately before the date the Secretary notifies the carrier of the action the Secretary proposes.

(2) Paragraph (1)(B) of this subsection does not apply to a place provided seasonal transportation comparable to the transportation provided during the prior year.

(d) TEMPORARY CERTIFICATES.—On application or on the initiative of the Secretary, the Secretary may—

(1) review the performance of an air carrier issued a certificate under section 41102(c) of this title on the basis that the air carrier will

provide innovative or low-priced air transportation under the certificate; and

(2) amend, modify, suspend, or revoke the certificate or authority under subsection (a)(2) or (c) of this section if the air carrier has not provided, or is not providing, the transportation.

(e) CONTINUING REQUIREMENTS.—(1) To hold a certificate issued under section 41102 of this title, an air carrier must continue to be fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

(A) is not fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

(B) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (A) of this paragraph.

(f) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the United States Government, shall reexamine immediately the fitness of an air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the certificate of the carrier issued under this chapter.

(g) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a certificate under subsection (a) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1123; Pub. L. 103–429, §6(50), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41110(a)(1) ..	49 App.:1371(f).	Aug. 23, 1958, Pub. L. 85–726, §401(f), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, §§10(b), 17, 92 Stat. 1716, 1720.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41110(a)(2)–(4).	49 App.:1371(g)(1).	Aug. 23, 1958, Pub. L. 85–726, §401(g), 72 Stat. 756; Oct. 24, 1978, Pub. L. 95–504, §18, 92 Stat. 1720; restated Feb. 15, 1980, Pub. L. 96–192, §6, 94 Stat 37.
	49 App.:1551(b)(1)(E).	

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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41110(b)	49 App.:1388(b)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §418(b)(4); added Nov. 9, 1977, Pub. L. 95–163, §17(a), 91 Stat. 1285.
	49 App.:1551(b)(1)(E).	
41110(c)	49 App.:1371(g)(3).	
	49 App.:1551(b)(1)(E).	
41110(d)	49 App.:1371(d)(8) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d)(8) (last sentence); added Oct. 24, 1978, Pub. L. 95–504, §13, 92 Stat. 1719.
	49 App.:1551(a)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(1)(B); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	
41110(e)	49 App.:1371(r) (related to certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(r) (related to certificate); added Oct. 24, 1978, Pub. L. 95–504, §20(d)(1), 92 Stat. 1722.
	49 App.:1551(b)(1)(E).	
41110(f)	49 App.:1371a (related to certificate).	Aug. 15, 1985, Pub. L. 99–88, §100 (1st complete par. related to certificate on p. 352), 99 Stat. 352.
41110(g)	49 App.:1371(g)(2).	
	49 App.:1551(b)(1)(E).	

In subsection (a)(1)(C), the words ''transportation is no longer being provided under a certificate'' are substituted for ''operation thereunder has ceased'' and ''operations thereunder have ceased'' for clarity and consistency.

In subsections (a)(2) and (e), the words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), before clause (A), the word ''application'' is substituted for ''petition or complaint'' for consistency in the revised title and with other titles of the Code and to eliminate unnecessary words. The words ''except as provided in paragraph (4) of this subsection'' are added for clarity. The words ''the simplified procedures under'' are omitted as surplus. In clause (A), the word ''alter'' is omitted as surplus. In clause (B), the reference to 49 App.:1372 is omitted from the cross-references of ''this subchapter'' because 49 App.:1372 is concerned with foreign air carrier permits and not relevant to air carrier certificate revocation. The word ''rule'' is omitted as being synonymous with ''regulation''. The words ''condition, or limitation'' are omitted as surplus.

In subsection (a)(3), the words ''to the provision, or to the order (other than an order issued in accordance with this sentence), rule, regulation, term, condition, or limitation found by the Board to have been violated'' are omitted as surplus.

In subsection (a)(4), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title. The words ''altered'' and ''the simplified procedures of'' are omitted as surplus.

In subsection (b), the words ''to the extent of such service'' are omitted as surplus. The word ''provided'' is substituted for ''performed'' for consistency in the revised title.

In subsection (c)(1), the word ''place'' is substituted for ''point'' for consistency in the revised title. In clause (A), the cross-reference is to section 41734(a) of the revised title for clarity because 49 App.:1371(j) is obsolete. The comparable provision is 49 App.:1389(b)(2), restated as section 41734(a). The words ''provided by that carrier'' are omitted as surplus. In clause (B), the word ''immediately'' is added for clarity.

In subsection (d)(2), the words ''alter'' and ''the procedures prescribed in'' are omitted as surplus.

In subsections (e) and (f)(2), the word ''amend'' is added for consistency.

In subsection (e), before clause (1), the words ''The requirement that each applicant for a certificate or any other authority . . . shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board'' are omitted as surplus. The words ''by order'' are omitted as unnecessary because of 5:ch. 5, subch. II. In clause (1), the word ''provide'' is substituted for ''perform'' for consistency in the revised title. The word ''properly'' is omitted as surplus. The word ''comply'' is substituted for ''conform to'' for consistency in the revised title. The word ''rules'' is omitted as being synonymous with ''regulations''. The word ''requirements'' is omitted as surplus.

In subsection (f), before clause (1), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''on and after August 15, 1985'' are omitted as executed. In clause (1), before subclause (A), the words ''law enforcement and other'' are omitted as surplus. The words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the Code. The words ''an air carrier'' are substituted for ''any carrier'' for clarity. In clause (2), the words ''of public convenience and necessity'' are omitted as surplus. The words ''issued under this chapter'' are added for clarity.

In subsection (g), the word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The word ''alteration'' is omitted as surplus.

PUB. L. 103–429

This amends 49:41110(e) to clarify the restatement of 49 App.:1371(r) (related to certificate) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1124).

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–429 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

''(1) is not fit, willing, and able to continue to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

''(2) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (1) of this subsection.''

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41104, 41107, 41111 of this title.

§ 41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates

(a) GENERAL REQUIREMENTS.—(1) The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(A) acting on an application for a certificate to provide air transportation under section 41102 of this title; and

(B) amending, modifying, suspending, or transferring any part of that certificate under section 41105 or 41110(a) or (c) of this title.

(2) Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(b) WHEN SIMPLIFIED PROCEDURE USED.—The Secretary may use the simplified procedure to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title, when the Secretary decides the use of the procedure is in the public interest.

(c) CONTENTS.—(1) To the extent the Secretary finds practicable, regulations under this section shall include each standard the Secretary will apply when—

(A) deciding whether to use the simplified procedure; and

(B) making a decision on an action in which the procedure is used.

(2) The regulations may provide that written evidence and argument may be filed under section 41108(b) of this title as a part of a response opposing or supporting the issuance of a certificate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1125.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41111(a)	49 App.:1371(p)(1) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(p); added Oct. 24, 1978, Pub. L. 95–504, § 21(a)(1), 92 Stat. 1723.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41111(b)	49 App.:1371(p)(2) (1st sentence).	
	49 App.:1551(b)(1)(E).	
41111(c)	49 App.:1371(p)(1) (last sentence), (2) (last sentence).	
	49 App.:1551(b)(1)(E).	

In this section, the words ''acting on'' and ''act on'' are substituted for ''disposition of'' for consistency.

In subsection (a)(1)(A), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(1)(B), the word ''alteration'' is omitted as surplus.

In subsection (a)(2), the word ''adequate'' is omitted as surplus.

In subsection (b), the words ''to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title'' are added for clarity.

In subsection (c)(2), the words ''by such person'' are omitted as surplus. The words ''a response opposing or supporting the issuance of a certificate'' are substituted for ''a protest or memorandum filed with respect to such application'' for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41108, 41109, 41110 of this title.

§ 41112. Liability insurance and financial responsibility

(a) LIABILITY INSURANCE.—The Secretary of Transportation may issue a certificate to a citi-

zen of the United States to provide air transportation as an air carrier under section 41102 of this title only if the citizen complies with regulations and orders of the Secretary governing the filing of an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the certificate. A certificate does not remain in effect unless the carrier complies with this subsection.

(b) FINANCIAL RESPONSIBILITY.—To protect passengers and shippers using an aircraft operated by an air carrier issued a certificate under section 41102 of this title, the Secretary may require the carrier to file a performance bond or equivalent security in the amount and on terms the Secretary prescribes. The bond or security must be sufficient to ensure the carrier adequately will pay the passengers and shippers when the transportation the carrier agrees to provide is not provided. The Secretary shall prescribe the amounts to be paid under this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41112	49 App.:1371(q).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(q); added Oct. 24, 1978, Pub. L. 95–504, § 20(d)(1), 92 Stat. 1722.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), the words ''citizen of the United States'' and ''citizen'' are substituted for ''applicant for such certificate or the air carrier'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title and receive a certificate. The words ''as the case may be'' are omitted as surplus. The words ''to provide air transportation as an air carrier under section 41102 of this title'' are added for clarity. The words ''approved by the Secretary'' are substituted for ''governing the filing and approval . . . in the amount prescribed by the Board'' to eliminate unnecessary words. The words ''The policy or plan must be sufficient to pay'' are substituted for ''which are conditioned to pay . . . amounts'' for clarity. The words ''for which such applicant or such air carrier may become liable for'' are omitted as surplus.

In subsection (b), the word ''passengers'' is substituted for ''travelers'' for consistency in this chapter. The words ''issued . . . under section 41102 of this title'' are added for clarity. The word ''arrangement'' is omitted as surplus. The word ''provide'' is substituted for ''perform'' for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41104 of this title.

CHAPTER 413—FOREIGN AIR TRANSPORTATION

Sec.
41301. Requirement for a permit.
41302. Permits of foreign air carriers.
41303. Transfers of permits.
41304. Effective periods and amendments, modifications, suspensions, and revocations of permits.
41305. Applications for permits.
41306. Simplified procedure to apply for, amend, modify, and suspend permits.
41307. Presidential review of actions about foreign air transportation.
41308. Exemption from the antitrust laws.
41309. Cooperative agreements and requests.
41310. Discriminatory practices.
41311. Gambling restrictions.
41312. Ending or suspending foreign air transportation.

AMENDMENTS

1994—Pub. L. 103–429, § 6(51)(B), Oct. 31, 1994, 108 Stat. 4385, added item 41312.

Pub. L. 103–305, title II, § 205(a)(2), Aug. 23, 1994, 108 Stat. 1583, added item 41311.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 39 section 5402.

§ 41301. Requirement for a permit

A foreign air carrier may provide foreign air transportation only if the foreign air carrier holds a permit issued under this chapter authorizing the foreign air transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41301	49 App.:1372(a).	Aug. 23, 1958, Pub. L. 85–726, § 402(a), 72 Stat. 757.

The word ''provide'' is substituted for ''engage in'' for consistency in the revised title. The word ''holds'' is substituted for ''there is in force'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41703, 46301 of this title.

§ 41302. Permits of foreign air carriers

The Secretary of Transportation may issue a permit to a person (except a citizen of the United States) authorizing the person to provide foreign air transportation as a foreign air carrier if the Secretary finds that—

(1) the person is fit, willing, and able to provide the foreign air transportation to be authorized by the permit and to comply with this part and regulations of the Secretary; and

(2)(A) the person is qualified, and has been designated by the government of its country, to provide the foreign air transportation under an agreement with the United States Government; or

(B) the foreign air transportation to be provided under the permit will be in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41302	49 App.:1372(b).	Aug. 23, 1958, Pub. L. 85–726, § 402(b), 72 Stat. 758; restated Feb. 15, 1980, Pub. L. 96–192, § 7, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''person (except a citizen of the United States)'' and ''person'' are substituted for ''applicant'' for clarity and consistency because only a person other than a United States citizen may be a ''foreign air carrier'' as defined in section 40102(a) of the revised title. In clauses (1) and (2), the word ''provide'' is substituted for ''perform'' for consistency in the revised title. In clause (1), the word ''properly'' is omitted as surplus. The word ''comply'' is substituted for ''conform'' for consistency in the revised title. The word ''rules'' is omitted as being synonymous with ''regulations''. The word ''requirements'' is omitted as surplus. In clause (2)(A), the words ''government of its country'' are substituted for ''its government'' for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41303, 41304, 41305, 41306, 41307, 41310, 41703, 41709, 44901, 46301, 46316 of this title.

§ 41303. Transfers of permits

A permit issued under section 41302 of this title may be transferred only when the Secretary of Transportation approves the transfer because the transfer is in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41303	49 App.:1372(g).	Aug. 23, 1958, Pub. L. 85–726, § 402(g), 72 Stat. 758.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41310, 46301 of this title.

§ 41304. Effective periods and amendments, modifications, suspensions, and revocations of permits

(a) GENERAL.—The Secretary of Transportation may prescribe the period during which a permit issued under section 41302 of this title is in effect. After notice and an opportunity for a hearing, the Secretary may amend, modify, suspend, or revoke the permit if the Secretary finds that action to be in the public interest.

(b) SUSPENSIONS AND RESTRICTIONS.—Without a hearing, but subject to the approval of the President, the Secretary—

(1) may suspend summarily the permits of foreign air carriers of a foreign country, or amend, modify, or limit the operations of the foreign air carriers under the permits, when the Secretary finds—

(A) the action is in the public interest; and

(B) the government, an aeronautical authority, or a foreign air carrier of the foreign country, over the objection of the United States Government, has—

(i) limited or denied the operating rights of an air carrier; or

(ii) engaged in unfair, discriminatory, or restrictive practices that have a substantial adverse competitive impact on an air carrier related to air transportation to, from, through, or over the territory of the foreign country; and

(2) to make this subsection effective, may restrict operations between the United States and the foreign country by a foreign air carrier of a third country.

(c) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the Government, shall reexamine immediately the fitness of a foreign air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the permit of the carrier issued under this chapter.

(d) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a permit under subsection (a) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41304(a)	49 App.:1372(e) (related to duration of permits).	Aug. 23, 1958, Pub. L. 85–726, § 402(e) (related to duration of permits), 72 Stat. 758.
	49 App.:1372(f)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 402(f)(1), 72 Stat. 758; Feb. 15, 1980, Pub. L. 96–192, § 9, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41304(b)	49 App.:1372(f)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 402(f)(2); added Feb. 15, 1980, Pub. L. 96–192, § 9, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	
41304(c)	49 App.:1371a (related to permit).	Aug. 15, 1985, Pub. L. 99–88, § 100 (1st complete par. related to permit on p. 352), 99 Stat. 352.
41304(d)	49 App.:1372(f)(1) (last sentence).	
	49 App.:1551(b)(1)(E).	

In subsection (a), the words ''altered'' and ''cancelled'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''alter'' and ''condition'' are omitted as surplus. In clause (B)(i) and (ii), the words ''United States'' before ''air carriers'' and ''carriers'' are omitted as surplus and for consistency because only a citizen of the United States may be an ''air carrier'' as defined in section

40102(a) of the revised title. In clause (B)(i), the word ''impaired'' is omitted as surplus.

In subsection (c), before clause (1), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''on and after August 15, 1985'' are omitted as executed. In clause (1), before subclause (A), the words ''law enforcement and other'' are omitted as surplus. The words ''departments, agencies, and instrumentalities of the Government'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the Code. The words ''a foreign air carrier'' are substituted for ''any carrier'' for clarity. In clause (2), the words ''of public convenience and necessity'' are omitted as surplus. The word ''amend'' is added for consistency. The words ''issued under this chapter'' are added for clarity.

In subsection (d), the word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The words ''alteration'' and ''cancellation'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41306, 41310, 46301 of this title.

§ 41305. Applications for permits

(a) FORM, CONTENTS, NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) A person must apply in writing to the Secretary of Transportation to be issued a permit under section 41302 of this title. The Secretary shall prescribe regulations to require that the application be—

(A) verified;

(B) in a certain form and contain certain information;

(C) served on interested persons; and

(D) accompanied by proof of service on those persons.

(2) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the permit. The Secretary shall act on an application as expeditiously as possible.

(b) TERMS.—The Secretary may impose terms for providing foreign air transportation under the permit that the Secretary finds may be required in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41305(a)(1) ..	49 App.:1372(c).	Aug. 23, 1958, Pub. L. 85–726, § 402(c), (e) (related to terms, conditions, or limitations of permits), 72 Stat. 758.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41305(a)(2) ..	49 App.:1372(d).	Aug. 23, 1958, Pub. L. 85–726, § 402(d), 72 Stat. 758; Feb. 15, 1980, Pub. L. 96–192, § 8, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	
41305(b)	49 App.:1372(e) (related to terms, conditions, or limitations of permits).	
	49 App.:1551(b)(1)(E).	

In subsection (a)(1), before clause (A), the words ''A person must apply . . . to the Secretary of Transportation to be issued a permit under section 41302 of this title'' are added for clarity. Clause (C) is added for clarity.

In subsection (a)(2), the words ''give due notice thereof to the public by'' are omitted as surplus. The word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The word ''expeditiously'' is substituted for ''speedily'' for consistency in this chapter.

In subsection (b), the words ''reasonable'' and ''conditions, or limitations'' are omitted as surplus. The words ''for providing foreign air transportation'' are added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 46301 of this title.

§ 41306. Simplified procedure to apply for, amend, modify, and suspend permits

(a) REGULATIONS.—The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(1) acting on an application for a permit to provide foreign air transportation under section 41302 of this title; and

(2) amending, modifying, or suspending any part of that permit under section 41304(a) or (b) of this title.

(b) NOTICE AND OPPORTUNITY TO RESPOND.—Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41306(a)	49 App.:1372(h) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 402(h); added Oct. 24, 1978, Pub. L. 95–504, § 21(b)(1), 92 Stat. 1723.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41306(b)	49 App.:1372(h) (last sentence).	

In subsection (a)(1), the words ''acting on'' are substituted for ''disposition of'' for consistency. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(2), the word ''alteration'' is omitted as surplus. The word ''transfer'' is omitted because 49 App.:1372(f) does not cover transfer of a permit.

In subsection (b), the word ''adequate'' is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 46301 of this title.

§ 41307. Presidential review of actions about foreign air transportation

The Secretary of Transportation shall submit to the President for review each decision of the Secretary to issue, deny, amend, modify, suspend, revoke, or transfer a certificate issued under section 41102 of this title authorizing an

air carrier, or a permit issued under section 41302 of this title authorizing a foreign air carrier, to provide foreign air transportation. The President may disapprove the decision of the Secretary only if the reason for disapproval is based on foreign relations or national defense considerations that are under the jurisdiction of the President. The President may not disapprove a decision of the Secretary if the reason is economic or related to carrier selection. A decision of the Secretary—

(1) is void if the President disapproves the decision and publishes the reasons (to the extent allowed by national security) for disapproval not later than 60 days after it is submitted to the President; or

(2)(A) takes effect as a decision of the Secretary if the President does not disapprove the decision not later than 60 days after the decision is submitted to the President; and

(B) when effective, may be reviewed judicially under section 46110 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41307	49 App.:1461(a).	Aug. 23, 1958, Pub. L. 85–726, §801(a), 72 Stat. 782; Mar. 22, 1972, Pub. L. 92–259, §2, 86 Stat. 96; restated Oct. 24, 1978, Pub. L. 95–504, §34, 92 Stat. 1740.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the word ''cancellation'' is omitted as surplus. The word ''modify'' is added for consistency. The words ''and the terms, conditions, and limitations contained in'' are omitted as surplus. The words ''issued under section 41102 of this title'' are added for clarity. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title. In clause (1), the words ''null and'' are omitted as surplus. The word ''publishes'' is substituted for ''issued in a public document'' to eliminate unnecessary words. In clause (2)(A), the words ''not the President'' are omitted as surplus.

EXECUTIVE ORDER NO. 11920

Ex. Ord. No. 11920, June 10, 1976, 41 F.R. 23665, which provided for establishment of Executive branch procedures to facilitate review of submitted decisions, was revoked by Ex. Ord. No. 12547, Feb. 6, 1986, 51 F.R. 5029.

EXECUTIVE ORDER NO. 12547

Ex. Ord. No. 12547, Feb. 6, 1986, 51 F.R. 5029, which provided for establishment of procedures to facilitate Presidential review of international aviation decisions submitted by Department of Transportation, was revoked by Ex. Ord. No. 12597, May 13, 1987, 52 F.R. 18335, set out below.

EX. ORD. NO. 12597. ESTABLISHING PROCEDURES FOR FACILITATING PRESIDENTIAL REVIEW OF INTERNATIONAL AVIATION DECISIONS BY THE DEPARTMENT OF TRANSPORTATION

Ex. Ord. No. 12597, May 13, 1987, 52 F.R. 18335, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 801 of the Federal Aviation Act, as amended (49 U.S.C. app. §1461) [see 49 U.S.C. 41307, 41509(f)], and in order to provide presidential guidance to department and agency heads and facilitate presidential review of decisions by the Department of Transportation pursuant to the Federal Aviation Act [see 49 U.S.C. 40101 et seq.], it is hereby ordered as follows:

SECTION 1. Executive Order No. 12547 of February 6, 1986, is revoked.

SEC. 2. The Secretary of Transportation is designated and empowered to receive on behalf of the President any decision of the Department of Transportation (hereinafter referred to as the ''DOT'') subject to Section 801 of the Federal Aviation Act, as amended. The Secretary of Transportation is further designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under Section 801 of the Federal Aviation Act, as amended, to review and determine not to disapprove any such decision that is not the subject of any written recommendation for disapproval or for a statement of reasons submitted to the Department of Transportation in accordance with section 5(b) of this Order.

SEC. 3. (a) Except as otherwise provided in this section, decisions of the DOT subject to Section 801 of the Federal Aviation Act, as amended, may be made available by the DOT for public inspection and copying following transmission to Executive departments and agencies pursuant to section 3(c) of this Order.

(b) In the interests of national security, and in order to allow for consideration of appropriate action under Executive Order No. 12356 [50 U.S.C. 435 note], decisions of the DOT transmitted to Executive departments and agencies pursuant to section 3(c) of this Order shall be withheld from public disclosure for a period not to exceed 5 days after said transmission.

(c) At the same time that decisions of the DOT are received by the Secretary of Transportation pursuant to section 2 of this Order, the DOT shall transmit copies thereof to the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Attorney General, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and any other Executive department or agency that the DOT deems appropriate.

(d) The Secretary of State and the Secretary of Defense, or their designees, shall review the decisions of the DOT transmitted pursuant to section 3(c) of this Order and shall promptly advise the Assistant to the President for National Security Affairs or his designee whether action pursuant to Executive Order No. 12356 is deemed appropriate. If, after considering these recommendations, the Assistant to the President for National Security Affairs determines that classification under Executive Order No. 12356 is appropriate, he shall take such action and immediately so inform the DOT. Action pursuant to this subsection shall be completed by the persons designated herein within 5 days of the transmission of the decision.

(e) On and after the 6th day following transmission of a DOT decision pursuant to section 3(c) of this Order, or upon earlier notification by the Assistant to the President for National Security Affairs or his designee, the DOT is authorized to disclose all unclassified portions of the text of such decision. Nothing in this section is intended to affect the ability to withhold material under any Executive order or statute other than Section 801.

SEC. 4. (a) Departments and agencies outside of the Executive Office of the President shall raise only matters of national defense or foreign relations in the course of the presidential review established by this Order. All other matters, including those related to regulatory policy, shall be presented to the DOT in accordance with the procedures of the DOT.

(b) Departments and agencies outside of the Executive Office of the President that identify matters of national defense or foreign relations while a decision is pending before the DOT shall, except as confidentiality is required for reasons of defense or foreign policy, make those matters known to the DOT in the course of its proceedings.

SEC. 5. (a) The DOT shall receive the recommendations, addressed to the President, of the departments and agencies referred to in section 3(c) of this Order.

(b) Departments or agencies outside of the Executive Office of the President making recommendations on matters of national defense or foreign relations with respect to any decision received by the Secretary of Transportation under section 2 of this Order shall submit their recommendations in writing to the DOT: (1) within 4 days of the DOT's issuance of a decision subject to a 10-day statutory review period under Section 801(b) [see 49 U.S.C. 41509(f)]; and (2) within 21 days of the DOT's issuance of a decision subject to a 60-day statutory review period under Section 801(a) [see 49 U.S.C. 41307]; or (3) in exceptional cases, within the period specified by the DOT in its letter of transmittal.

(c) The DOT shall, as soon as practical after the deadlines specified in section 5(b) of this Order: (1) if no recommendations for disapproval or for a statement of reasons are received from the departments and agencies specified in section 3(c) of this Order, issue its decision to become effective according to its terms; or (2) if recommendations for disapproval or for a statement of reasons are received, transmit them to the Assistant to the President for National Security Affairs, who, upon review, shall transmit a memorandum to the President with a recommendation as to whether or not the President should disapprove the proposed decision.

SEC. 6. (a) In advising the President with respect to his review of a decision pursuant to Section 801, departments and agencies outside of the Executive Office of the President shall identify with particularity the defense or foreign policy implications of the DOT decision that are deemed appropriate for consideration.

(b) If any department or agency that made recommendations to the President pursuant to Section 801 believes that, if the President decides not to disapprove a decision, the letter so advising the DOT should include a statement that the decision not to disapprove was based on national defense or foreign relations reasons, it should so indicate separately and explain why.

SEC. 7. Individuals within the Executive Office of the President shall follow a policy of: (a) refusing to discuss matters relating to the disposition of a case subject to the review of the President under Section 801 with any interested private party, or an attorney or agent for any such party, prior to the decision by the President or his designee; and (b) referring any written communication from an interested private party, or an attorney or agent for any such party, to the appropriate department or agency outside of the Executive Office of the President. Exceptions to this policy may be made only when the head of an appropriate department or agency outside of the Executive Office of the President personally finds, on a nondelegable basis, that direct written or oral communication between a private party and a person within the Executive Office of the President is needed for reasons of defense or foreign policy.

SEC. 8. Departments and agencies outside of the Executive Office of the President that regularly make recommendations in connection with the presidential review pursuant to Section 801 shall, consistent with applicable law, including the provisions of Chapter 5 of Title 5 of the United States Code:

(a) establish public dockets for all written communications (other than those requiring confidential treatment for defense or foreign policy reasons) between their officers and employees and private parties in connection with the preparation of such recommendations; and

(b) prescribe such other procedures governing oral and written communications as they deem appropriate.

SEC. 9. This Order is intended solely for the internal guidance of the departments and agencies in order to facilitate the presidential review process. This Order does not confer rights on any private parties.

SEC. 10. None of the time deadlines specified in this Order shall be construed as a limitation on expedited presidential review of any decision under Section 801.

SEC. 11. The provisions of this Order shall become effective upon publication in the Federal Register and shall govern the review of any proposed decisions of the DOT that have not become final prior to that date under Executive Order No. 12547.

SEC. 12. References in any Executive order to any provision in Executive Order No. 12547 shall be deemed to refer to the corresponding provision in this Order.

RONALD REAGAN.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41102, 41108, 41310, 46110 of this title.

§ 41308. Exemption from the antitrust laws

(a) DEFINITION.—In this section, ''antitrust laws'' has the same meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(b) EXEMPTION AUTHORIZED.—When the Secretary of Transportation decides it is required by the public interest, the Secretary, as part of an order under section 41309 or 42111 of this title, may exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(c) EXEMPTION REQUIRED.—In an order under section 41309 of this title approving an agreement, request, modification, or cancellation, the Secretary, on the basis of the findings required under section 41309(b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41308	49 App.:1384.	Aug. 23, 1958, Pub. L. 85–726, § 414, 72 Stat. 770; restated Oct. 24, 1978, Pub. L. 95–504, § 30(a), 92 Stat. 1731; Feb. 15, 1980, Pub. L. 96–192, § 27, 94 Stat. 47.
	49 App.:1551(a)(6) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(6) (related to § 414); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704.
	49 App.:1551(b) (1)(C) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(C) (related to § 414); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, § 4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, § 3(a), 98 Stat. 1703.

Subsection (a) is substituted for ''the 'anti-trust laws' set forth in subsection (a) of section 12 of title 15'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), reference to 49 App.:1378 and 1379 is omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41309. Cooperative agreements and requests

(a) FILING.—An air carrier or foreign air carrier may file with the Secretary of Transportation a true copy of or, if oral, a true and com-

plete memorandum of, an agreement (except an agreement related to interstate air transportation), or a request for authority to discuss cooperative arrangements (except arrangements related to interstate air transportation), and any modification or cancellation of an agreement, between the air carrier or foreign air carrier and another air carrier, a foreign carrier, or another carrier.

(b) APPROVAL.—The Secretary of Transportation shall approve an agreement, request, modification, or cancellation referred to in subsection (a) of this section when the Secretary finds it is not adverse to the public interest and is not in violation of this part. However, the Secretary shall disapprove—

(1) or, after periodic review, end approval of, an agreement, request, modification, or cancellation, that substantially reduces or eliminates competition unless the Secretary finds that—

(A) the agreement, request, modification, or cancellation is necessary to meet a serious transportation need or to achieve important public benefits (including international comity and foreign policy considerations); and

(B) the transportation need cannot be met or those benefits cannot be achieved by reasonably available alternatives that are materially less anticompetitive; or

(2) an agreement that—

(A) is between an air carrier not directly operating aircraft in foreign air transportation and a common carrier subject to subtitle IV of this title; and

(B) governs the compensation the common carrier may receive for the transportation.

(c) NOTICE AND OPPORTUNITY TO RESPOND OR FOR HEARING.—(1) When an agreement, request, modification, or cancellation is filed, the Secretary of Transportation shall give the Attorney General and the Secretary of State written notice of, and an opportunity to submit written comments about, the filing. On the initiative of the Secretary of Transportation or on request of the Attorney General or Secretary of State, the Secretary of Transportation may conduct a hearing to decide whether an agreement, request, modification, or cancellation is consistent with this part whether or not it was approved previously.

(2) In a proceeding before the Secretary of Transportation applying standards under subsection (b)(1) of this section, a party opposing an agreement, request, modification, or cancellation has the burden of proving that it substantially reduces or eliminates competition and that less anticompetitive alternatives are available. The party defending the agreement, request, modification, or cancellation has the burden of proving the transportation need or public benefits.

(3) The Secretary of Transportation shall include the findings required by subsection (b)(1) of this section in an order of the Secretary approving or disapproving an agreement, request, modification, or cancellation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1129.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41309(a)	49 App.:1382(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 412(a), (b); added Oct. 24, 1978, Pub. L. 95–504, § 28(c), 92 Stat. 1729; Feb. 15, 1980, Pub. L. 96–192, § 11, 94 Stat. 39.
	49 App.:1551(a)(6) (related to 49 App.:1382).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(6) (related to § 412); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704.
	49 App.:1551(b) (1)(C) (related to 49 App.:1382(a)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(C) (related to § 412(a), (b)); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, § 4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, § 3(a), 98 Stat. 1703.
41309(b)	49 App.:1382(a)(2)(A).	
	49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(a)).	
41309(c)(1) ..	49 App.:1382(b).	
	49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(b)).	
41309(c)(2) ..	49 App.:1382(a)(2)(B).	
41309(c)(3) ..	49 App.:1382(a)(2)(C).	
	49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(a)).	

In this section, the word ''contract'' is omitted as being included in ''agreement''.

In subsection (a), the words ''(whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise)'' are omitted as surplus. The words ''(except an agreement related to interstate air transportation)'' and ''(except arrangements related to interstate air transportation)'' are added because of 49 App.:1551(a)(6) (related to 49 App.:1382). The word ''working'' is omitted as surplus. The words ''in force on October 24, 1978, or thereafter entered into'' are omitted as executed. The words ''and any modification or cancellation of an agreement'' are substituted for ''or any modification or cancellation thereof'' for clarity and consistency.

In subsection (b), before clause (1), the words ''The Board shall by order disapprove any contract, agreement, or request . . . that it finds to be adverse to the public interest or in violation of this chapter'' are omitted as surplus because of the language restated in this subsection that sets out the requirements for approval by the Secretary of Transportation before the antitrust exemption is effective. The words ''whether or not previously approved by it'' are omitted as surplus because of the language in clause (1) requiring periodic review and continuing approval. The words ''by order'' are omitted as unnecessary because of 5:ch. 5, subch. II. The text of 49 App.:1382(a)(2)(A)(iii) is omitted as obsolete because of 49 App.:1551(a)(6) (related to 49 App.:1382).

In subsection (c)(1), the words ''in accordance with regulations which it prescribes'' are omitted as surplus. The words ''in accordance with regulations prescribed by the Board'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41101, 41110, 41308, 41503, 41710, 42111, 46301 of this title.

§ 41310. Discriminatory practices

(a) PROHIBITION.—An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.

(b) REVIEW AND NEGOTIATION OF DISCRIMINATORY FOREIGN CHARGES.—(1) The Secretary of Transportation shall survey charges imposed on an air carrier by the government of a foreign country or another foreign entity for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation decides that a charge is discriminatory, the Secretary promptly shall report the decision to the Secretary of State. The Secretaries of State and Transportation promptly shall begin negotiations with the appropriate government to end the discrimination. If the discrimination is not ended in a reasonable time through negotiation, the Secretary of Transportation shall establish a compensating charge equal to the discriminatory charge. With the approval of the Secretary of State, the Secretary of the Treasury shall impose the compensating charge on a foreign air carrier of that country as a condition to accepting the general declaration of the aircraft of the foreign air carrier when it lands or takes off.

(2) The Secretary of the Treasury shall maintain an account to credit money collected under paragraph (1) of this subsection. An air carrier shall be paid from the account an amount certified by the Secretary of Transportation to compensate the air carrier for the discriminatory charge paid to the government.

(c) ACTIONS AGAINST DISCRIMINATORY ACTIVITY.—(1) The Secretary of Transportation may take actions the Secretary considers are in the public interest to eliminate an activity of a government of a foreign country or another foreign entity, including a foreign air carrier, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity—

(A) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against an air carrier; or

(B) imposes an unjustifiable or unreasonable restriction on access of an air carrier to a foreign market.

(2) The Secretary of Transportation may deny, amend, modify, suspend, revoke, or transfer under paragraph (1) of this subsection a foreign air carrier permit or tariff under section 41302, 41303, 41304(a), 41504(c), 41507, or 41509 of this title.

(d) FILING OF, AND ACTING ON, COMPLAINTS.—(1) An air carrier or a department, agency, or instrumentality of the United States Government may file a complaint under subsection (c) of this section with the Secretary of Transportation. The Secretary shall approve, deny, or dismiss the complaint, set the complaint for a hearing or investigation, or begin another proceeding proposing remedial action not later than 60 days after receiving the complaint. The Secretary may extend the period for acting for additional periods totaling not more than 30 days if the Secretary decides that with additional time it is likely that a complaint can be resolved satisfactorily through negotiations with the government of the foreign country or foreign entity. The Secretary must act not later than 90 days after receiving the complaint. However, the Secretary may extend this 90-day period for not more than an additional 90 days if, on the last day of the initial 90-day period, the Secretary finds that—

(A) negotiations with the government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

(B) an air carrier has not been subjected to economic injury by the government or entity as a result of filing the complaint; and

(C) the public interest requires additional time before the Secretary acts on the complaint.

(2) In carrying out paragraph (1) of this subsection and subsection (c) of this section, the Secretary of Transportation shall—

(A) solicit the views of the Secretaries of Commerce and State and the United States Trade Representative;

(B) give an affected air carrier or foreign air carrier reasonable notice and an opportunity to submit written evidence and arguments within the time limits of this subsection; and

(C) submit to the President under section 41307 or 41509(f) of this title actions proposed by the Secretary of Transportation.

(e) REVIEW.—(1) The Secretaries of State, the Treasury, and Transportation and the heads of other departments, agencies, and instrumentalities of the Government shall keep under review, to the extent of each of their jurisdictions, each form of discrimination or unfair competitive practice to which an air carrier is subject when providing foreign air transportation. Each Secretary and head shall—

(A) take appropriate action to eliminate any discrimination or unfair competitive practice found to exist; and

(B) request Congress to enact legislation when the authority to eliminate the discrimination or unfair practice is inadequate.

(2) The Secretary of Transportation shall report to Congress annually on each action taken under paragraph (1) of this subsection and on the continuing program to eliminate discrimination and unfair competitive practices. The Secretaries of State and the Treasury each shall give the Secretary of Transportation information necessary to prepare the report.

(f) REPORTS.—Not later than 30 days after acting on a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on action taken under this section on the complaint.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1130.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41310(a)	49 App.:1374(b).	Aug. 23, 1958, Pub. L. 85–726, §404(b), 72 Stat. 760.
	49 App.:1551(a) (4)(C) (related to 49 App.:1374(b)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(C) (related to §404(b)); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1703.
41310(b)	49 App.:1159a.	June 16, 1948, ch. 473, 62 Stat. 450, §11; added Jan. 3, 1975, Pub. L. 93–623, §3, 88 Stat. 2103; Oct. 4, 1984, Pub. L. 98–443, §9(c), 98 Stat. 1706.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41310(c)	49 App.:1159b(b) (1).	Jan. 3, 1975, Pub. L. 93–623, 88 Stat. 2102, § 2(b)(1), (2), (4); added Feb. 15, 1980, Pub. L. 96–192, § 23, 94 Stat. 45; Oct. 4, 1984, Pub. L. 98–443, § 9(d)(2), (3), 98 Stat. 1707; Aug. 23, 1988, Pub. L. 100–418, §§ 10011, 10012(1), (2), 102 Stat. 1573.
41310(d)(1) ..	49 App.:1159b(b) (2), (4).	
41310(d)(2) ..	49 App.:1159b(b) (3).	Jan. 3, 1975, Pub. L. 93–623, 88 Stat. 2102, § 2(b)(3), (e); added Aug. 23, 1988, Pub. L. 100–418, §§ 10012(3), 10013, 102 Stat. 1573.
41310(e)(1) ..	49 App.:1159b(a).	Jan. 3, 1975, Pub. L. 93–623, § 2(a), 88 Stat. 2102; Oct. 4, 1984, Pub. L. 98–443, § 9(d)(1), 98 Stat. 1706.
	49 App.:1159b(c).	Jan. 3, 1975, Pub. L. 93–623, § 2(c), 88 Stat. 2103; Feb. 15, 1980, Pub. L. 96–192, § 23, 94 Stat. 45.
41310(e)(2) ..	49 App.:1159b(d).	Jan. 3, 1975, Pub. L. 93–623, § 2(d), 88 Stat. 2103; Feb. 15, 1980, Pub. L. 96–192, § 23, 94 Stat. 45; Oct. 4, 1984, Pub. L. 98–443, § 9(d)(2), (4), 98 Stat. 1707.
41310(f)	49 App.:1159b(e).	

In subsection (a), the words ''may not subject . . . to unreasonable discrimination'' are substituted for ''No . . . shall make, give, or cause any undue or unreasonable preference or advantage . . . in any respect whatsoever or subject . . . to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever'' to eliminate unnecessary words. The words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(C) provides that 49 App.:1374 no longer applies to interstate or overseas air transportation except insofar as 49 App.:1374 requires air carriers to provide safe and adequate service.

In subsection (b)(1), the words ''at any time'', ''unreasonably exceed comparable charges for furnishing such airport property or airway property in the United States or are otherwise'' and ''reduce such charges or'' are omitted as surplus. The words ''the Secretary of State shall promptly report such instances to'' are omitted as surplus because the Secretary of Transportation is involved in the negotiations and aware of the failure to end the discrimination. The words ''excessive or'' are omitted as surplus. The words ''or carriers'' are omitted because of 1:1.

In subsection (b)(2), the words ''in accordance with such regulations as he shall adopt'' are omitted as surplus because of 49:322(a). The words ''by them'' are omitted as surplus.

In subsections (c)–(e), the words ''United States'' before ''air carriers'' and ''air carrier'' are omitted as surplus and for consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title and because 49 App.:1301 applies to this section.

In subsections (c)(1) and (d)(1), before each clause (A), the words ''foreign entity'' and ''entity'' are substituted for ''instrumentality'' for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), the words ''alteration'', ''cancellation'', ''limitation'', and ''pursuant to the powers of the Secretary'' are omitted as surplus.

In subsection (d)(1), before clause (A), the words ''department, agency, or instrumentality of the United States Government'' are substituted for ''agency of the Government of the United States'' for consistency in the revised title and with other titles of the Code. The words ''additional periods totaling not more than 30 days'' are substituted for ''an additional period or periods of up to 30 days each'' for clarity because the amendment made by section 10111 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418, 102 Stat. 1573) changed the additional period within which the Secretary had to act to only 30 days. The word ''initial'' is added for clarity.

In subsection (d)(2)(A), the words ''the Secretaries of Commerce and State and the United States Trade Representative'' are substituted for ''the Department of State, the Department of Commerce, and the Office of the United States Trade Representative'' because of 15:1501, 22:2651, and 19:2171, respectively.

In subsection (d)(2)(B), the words ''as is consistent with acting on the complaint'' are omitted as surplus.

In subsection (e)(1), before clause (A), the text of 49 App.:1159b(a) (1st, 2d sentences) is omitted as executed. The words ''The Secretaries of State, the Treasury, and Transportation'' are substituted for ''The Department of State, the Department of the Treasury, the Department of Transportation'' because of 22:2651, 31:301(b), and 49:102(b), respectively. The words ''the heads of'' and ''instrumentalities of the Government'' are added for consistency in the revised title and with other titles of the Code. The word ''jurisdictions'' is substituted for ''respective functions'' for clarity and consistency. In clause (A), the words ''within its jurisdiction . . . such forms of'' are omitted as surplus. Clause (B) is substituted for 49 App.:1159b(c) to eliminate unnecessary words.

In subsection (e)(2), the words ''faced by United States carriers in foreign air transportation'', ''as may be'', and ''required by this subsection'' are omitted as surplus.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives changed to Committee on Transportation and Infrastructure of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41311. Gambling restrictions

(a) IN GENERAL.—An air carrier or foreign air carrier may not install, transport, or operate, or permit the use of, any gambling device on board an aircraft in foreign air transportation.

(b) DEFINITION.—In this section, the term ''gambling device'' means any machine or mechanical device (including gambling applications on electronic interactive video systems installed on board aircraft for passenger use)—

(1) which when operated may deliver, as the result of the application of an element of chance, any money or property; or

(2) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property.

(Added Pub. L. 103–305, title II, § 205(a)(1), Aug. 23, 1994, 108 Stat. 1583.)

STUDY OF GAMBLING ON COMMERCIAL AIRCRAFT

Section 205(b) of Pub. L. 103–305 provided that: ''Not later than 1 year after the date of the enactment of this Act [Aug. 23, 1994], the Secretary shall complete a study of—

''(1) the aviation safety effects of gambling applications on electronic interactive video systems installed on board aircraft for passenger use, including an evaluation of the effect of such systems on the navigational and other electronic equipment of the aircraft, on the passengers and crew of the aircraft, and on issues relating to the method of payment;

''(2) the competitive implications of permitting foreign air carriers only, but not United States air car-

riers, to install, transport, and operate gambling applications on electronic interactive video systems on board aircraft in the foreign commerce of the United States on flights over international waters, or in fifth freedom city-pair markets; and

''(3) whether gambling should be allowed on international flights, including proposed legislation to effectuate any recommended changes in existing law.

The Secretary shall, within 5 days after the completion of the study, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives on the results of the study.''

§ 41312. Ending or suspending foreign air transportation

(a) GENERAL.—An air carrier holding a certificate issued under section 41102 of this title to provide foreign air transportation—

(1) may end or suspend the transportation to a place under the certificate only when the carrier gives at least 90 days notice of its intention to end or suspend the transportation to the Secretary, any community affected by that decision, and the State authority of the State in which a community is located; and

(2) if it is the only air carrier holding a certificate to provide non-stop or single-plane foreign air transportation between 2 places, may end or suspend the transportation between those places only when the carrier gives at least 60 days notice of its intention to end or suspend the transportation to the Secretary and each community directly affected by that decision.

(b) TEMPORARY SUSPENSION.—The Secretary may authorize the temporary suspension of foreign air transportation under subsection (a) of this section when the Secretary finds the suspension is in the public interest.

(Added Pub. L. 103–429, § 6(51)(A), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41312(a)	49 App.:1371(j)(1) (1st sentence), (2).	Aug. 23, 1958, Pub. L. 85–726, § 401(j), 72 Stat. 756, as restated Oct. 24, 1978, Pub. L. 95–504, § 19(a), 92 Stat. 1720.
	49 App.:1551(a)(1)(D).	Aug. 23, 1958, Pub. L. 85–726, § 1601(a)(1)(D), as added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, § 1601(b)(1)(E), as added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41312(b)	49 App.:1371(j)(1) (last sentence). 49 App.:1551(a)(1)(D), (b)(1)(E).	

In the section, the text of 49 App.:1371(j) (related to interstate and overseas transportation of persons) is omitted because of 49 App.:1551(a)(1)(D). The text of 49 App.:1371(j) (related to other interstate and overseas air transportation and the domestic air transportation of mail) is omitted because a certificate of public convenience and necessity is no longer required. See H.R. Rept. 98–793, 98th Cong., 2d Sess., p. 10 (1984). The text of 49 App.:1371(j) (related to essential air transportation) is omitted as superseded by 49 App.:1389, restated as subchapter II of chapter 417 of title 49.

In subsection (a)(1) and (2), the word ''place'' is substituted for ''point'' for consistency in the revised title. The words ''by that decision'' are added for clarity.

In subsection (a)(1), the words ''which it is providing'' are omitted as surplus. The word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the words ''between those places'' are substituted for ''being provided by such air carrier under such certificate'' to eliminate unnecessary words.

In subsection (b), the words ''by regulation or otherwise'' are omitted as surplus. The words ''when the Secretary finds the suspension is in'' are substituted for ''as may be'' for clarity and consistency.

EFFECTIVE DATE

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

CHAPTER 415—PRICING

Sec.
41501. Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation.
41502. Establishing joint prices for through routes with other common carriers.
41503. Establishing joint prices for through routes provided by State authorized carriers.
41504. Tariffs for foreign air transportation.
41505. Uniform methods for establishing joint prices, and divisions of joint prices, applicable to commuter air carriers.
41506. Price division filing requirements for foreign air transportation.
41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation.
41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation.
41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation.
41510. Required adherence to foreign air transportation tariffs.
41511. Special prices for foreign air transportation.

§ 41501. Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation

Every air carrier and foreign air carrier shall establish, comply with, and enforce—

(1) reasonable prices, classifications, rules, and practices related to foreign air transportation; and

(2) for joint prices established for foreign air transportation, reasonable divisions of those prices among the participating air carriers or foreign air carriers without unreasonably discriminating against any of those carriers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1132.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41501	49 App.:1374(a)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 404(a)(2); added Mar. 22, 1972, Pub. L. 92–259, § 1, 86 Stat. 95.

In this chapter, the word ''regulation'' is omitted in restating the phrase ''classifications, rules, regulations, and practices'' because it is covered by the word

''rules'' and to distinguish the rules of an air carrier or foreign air carrier from the regulations of the United States Government. The word ''reasonable'' is substituted for ''just and reasonable'' and ''just, reasonable, and equitable'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. The word ''prices'' is substituted for ''fares'' and ''rates, fares, and charges'' because of the definition of ''price'' in section 40102(a) of the revised title.

In this section, before clause (1), the words ''comply with'' are substituted for ''observe'' for consistency in the revised title and with other titles of the United States Code. In clause (1), the words ''individual and joint'' are omitted as surplus. In clause (2), the words ''unreasonably discriminating'' are substituted for ''unduly prefer or prejudice'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41502. Establishing joint prices for through routes with other common carriers

(a) JOINT PRICES.—An air carrier may establish reasonable joint prices and through service with another common carrier. However, an air carrier not directly operating aircraft in air transportation (except an air express company) may not establish under this section a joint price for the transportation of property with a common carrier subject to subtitle IV of this title.

(b) PRICES, CLASSIFICATIONS, RULES, AND PRACTICES AND DIVISIONS OF JOINT PRICES.—For through service by an air carrier and a common carrier subject to subtitle IV of this title, the participating carriers shall establish—

(1) reasonable prices and reasonable classifications, rules, and practices affecting those prices or the value of the transportation provided under those prices; and

(2) for joint prices established for the through service, reasonable divisions of those joint prices among the participating carriers.

(c) STATEMENTS INCLUDED IN TARIFFS.—An air carrier and a common carrier subject to subtitle IV of this title that are participating in through service and joint prices shall include in their tariffs, filed with the Secretary of Transportation, a statement showing the through service and joint prices.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1132.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41502(a)	49 App.:1483(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1003(b), 72 Stat. 791.
41502(b)	49 App.:1483(b) (2d sentence).	
41502(c)	49 App.:1483(b) (last sentence).	
	49 App.:155(b) (1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), the words ''(except an air express company)'' are substituted for ''(other than companies engaged in the air express business)'' to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''participating carriers'' are substituted for ''carriers parties thereto'' and ''carriers participating therein'' for consistency in this chapter.

In subsection (c), the words ''or the Interstate Commerce Commission, as the case may be'' are omitted because of 49:10526(a)(8)(B).

§ 41503. Establishing joint prices for through routes provided by State authorized carriers

Subject to sections 41309 and 42111 of this title, a citizen of the United States providing transportation under section 41101(b) of this title may make an agreement with an air carrier or foreign air carrier for joint prices for that transportation. The joint prices agreed to must be the lowest of—

(1) the sum of the applicable prices for—

(A) the part of the transportation provided in the State and approved by the appropriate State authority; and

(B) the part of the transportation provided by the air carrier or foreign air carrier;

(2) a joint price established and filed under section 41504 of this title; or

(3) a joint price prescribed by the Secretary of Transportation under section 41507 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1132.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41503	49 App.:1371(d)(4)(A)(ii) (related to joint rates, fares), (B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(4)(A)(ii) (related to joint rates, fares), (B); added Nov. 9, 1977, Pub. L. 95–163, § 9, 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, § 9, 92 Stat. 1713.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''Notwithstanding any other provision of this chapter'' are omitted as surplus. The words ''a citizen of the United States providing transportation under section 41101(b) of this title'' are substituted for ''any citizen of the United States who undertakes, within any State, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage within such State granted by the appropriate State agency'' for clarity and because of the restatement of 49 App.:1371(d)(4)(A)(i) and (ii) (related to joint services) in section 41101(b) of the revised title. The words ''the establishment of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41504. Tariffs for foreign air transportation

(a) FILING AND CONTENTS.—In the way prescribed by regulation by the Secretary of Transportation, every air carrier and foreign air carrier shall file with the Secretary, publish, and keep open to public inspection, tariffs showing the prices for the foreign air transportation provided between places served by the carrier and provided between places served by the carrier and places served by another air carrier or foreign air carrier with which through service and joint prices have been established. A tariff—

(1) shall contain—

(A) to the extent the Secretary requires by regulation, a description of the classifications, rules, and practices related to the foreign air transportation;

(B) a statement of the prices in money of the United States; and

(C) other information the Secretary requires by regulation; and

(2) may contain—

(A) a statement of the prices in money that is not money of the United States; and

(B) information that is required under the laws of a foreign country in or to which the air carrier or foreign air carrier is authorized to operate.

(b) CHANGES.—(1) Except as provided in paragraph (2) of this subsection, an air carrier or foreign air carrier may change a price or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, specified in a tariff of the carrier for foreign air transportation only after 30 days after the carrier has filed, published, and posted notice of the proposed change in the same way as required for a tariff under subsection (a) of this section. However, the Secretary may prescribe an alternative notice requirement, of at least 25 days, to allow an air carrier or foreign air carrier to match a proposed change in a passenger fare or a charge of another air carrier or foreign air carrier. A notice under this paragraph must state plainly the change proposed and when the change will take effect.

(2) If the effect of a proposed change would be to begin a passenger fare that is outside of, or not covered by, the range of passenger fares specified under section 41509(e)(2) and (3) of this title, the proposed change may be put into effect only on the expiration of 60 days after the notice is filed under regulations prescribed by the Secretary.

(c) REJECTION OF CHANGES.—The Secretary may reject a tariff or tariff change that is not consistent with this section and regulations prescribed by the Secretary. A tariff or change that is rejected is void.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1133.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41504(a)	49 App.:1373(a) (1st sentence, 2d sentence words before semicolon, last sentence).	Aug. 23, 1958, Pub. L. 85–726, §403(a), 72 Stat. 758.
	49 App.:1551(a) (4)(B) (related to 49 App.:1373(a)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(a), (c)(1), (2)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41504(b)(1) ..	49 App.:1373(c)(1).	Aug. 23, 1958, Pub. L. 85–726, §403(c)(1), (2), 72 Stat. 759; Nov. 9, 1977, Pub. L. 95–163, §10(a), 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, §22, 92 Stat. 1724; Feb. 15, 1980, Pub. L. 96–192, §24(b), (c), 94 Stat. 47.
	49 App.:1551(a) (4)(B) (related to 49 App.:1373(c)(1)), (b)(1)(E).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41504(b)(2) ..	49 App.:1373(c)(2).	
	49 App.:1551(a) (4)(B) (related to 49 App.:1373(c)(2)), (b)(1)(E).	
41504(c)	49 App.:1373(a) (2d sentence words after semicolon, 3d sentence).	
	49 App.:1551(a) (4)(B) (related to 49 App.:1373(a)), (b)(1)(E).	

In this section, the words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The words ''passenger fare'' are substituted for ''fare'' for consistency in the revised title.

In subsection (a), before clause (1), the word ''print'' is omitted as being included in ''publish''. The word ''places'' is substituted for ''points'' for consistency in the revised title and with other titles of the United States Code. In clause (1)(A), the word ''services'' is omitted as being included in ''practices''. In clauses (1)(B) and (2)(A), the word ''lawful'' is omitted as surplus.

In subsection (b)(1), the words ''for foreign air transportation'' are added because of 49 App.:1551(a)(4)(B). See the revision notes for subsection (a) of this section. The words ''in the same way as required for a tariff under'' are substituted for ''in accordance with'' for clarity. The words ''proposed change in a passenger fare or a charge of another air carrier or foreign air carrier'' are substituted for ''fares or charges specified in another air carrier's or foreign air carrier's proposed tariff'' for clarity and consistency in this section.

In subsection (b)(2), the words ''not covered by'' are substituted for ''to which such range of fares does not apply'' to eliminate unnecessary words. The words ''subparagraphs (A) and (B) of section 1482(d)(4) of this Appendix . . . section 1482(d)(7) of this Appendix'' are omitted because those sections related to interstate and overseas air transportation and the source provisions restated in this section relate to foreign air transportation. In addition, the text of 49 App.:1551(a)(5)(D) provides that 49 App.:1482(d) ceased to be in effect on January 1, 1985, except as related to foreign air transportation. The reference in the source provisions to ''section 1482(j)(9) of this Appendix'' has been restated as though it were a reference to 49 App.:1482(j)(10) to correct an apparent error in the International Air Transportation Competition Act of 1979 (Public Law 96–192, 94 Stat. 35). Section 24(b) of S. 1300 of the 96th Congress (the derivative source for the International Air Transportation Competition Act of 1979), as originally passed by both the Senate and the House of Representatives, restated section 403(c)(2) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 759) to read as it now does with a cross–reference to section 1002(j)(9) of the Federal Aviation Act of 1958. Also contained in those versions of S. 1300 in section 24(a) was an amendment to section 1002(j) of the Federal Aviation Act of 1958 to add a paragraph (9) that contained language identical to what is now section 1002(j)(10) of the Federal Aviation Act of 1958. When S. 1300 was reported by the conference committee and enacted into law as the International Air Transportation Competition Act of 1979, section 24(a) had been changed so that a different paragraph (9) was added and what had been paragraph (9) was now designated as a new paragraph (10) to be added. Apparently, when the con-

ference committee redesignated section 1002(j)(9) as 1002(j)(10) it did not make a corresponding change in the cross–reference in section 403(c)(2). See 125 Cong. Rec. 26936, 32147, 36939.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 41310, 41503, 41509, 46301 of this title.

§ 41505. Uniform methods for establishing joint prices, and divisions of joint prices, applicable to commuter air carriers

(a) DEFINITION.—In this section, ''commuter air carrier'' means an air carrier providing transportation under section 40109(f) of this title that provides at least 5 scheduled roundtrips a week between the same 2 places.

(b) GENERAL.—Except as provided in subsection (c) of this section, when the Secretary of Transportation prescribes under section 41508 or 41509 of this title a uniform method generally applicable to establishing joint prices and divisions of joint prices for and between air carriers holding certificates issued under section 41102 of this title, the Secretary shall make that uniform method apply to establishing joint prices and divisions of joint prices for and between air carriers and commuter air carriers.

(c) NOTICE REQUIRED BEFORE MODIFYING, SUSPENDING, OR ENDING TRANSPORTATION.—A commuter air carrier that has an agreement with an air carrier to provide transportation for passengers and property that includes through service by the commuter air carrier over the commuter air carrier's routes and air transportation provided by the air carrier shall give the air carrier and the Secretary at least 90 days' notice before modifying, suspending, or ending the transportation. If the commuter air carrier does not give that notice, the uniform method of establishing joint prices and divisions of joint prices referred to in subsection (b) of this section does not apply to the commuter air carrier.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41505(a)	49 App.:1482a(2), (3).	Oct. 24, 1978, Pub. L. 95–504, § 37(c), 92 Stat. 1742.
41505(b)	49 App.:1482a(1) (1st sentence).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41505(c)	49 App.:1482a(1) (last sentence).	
	49 App.:1551(b)(1)(E).	

In subsection (a), the text of 49 App.:1482a(2)(A) is omitted as unnecessary because the definition of ''air carrier'' in 49 App.:1301(3) is restated in section 40102(a) of the revised title and applies to this section and because the functions of the Civil Aeronautics Board under 49 App.:1482a were transferred to the Secretary of Transportation by 49 App.:1551(b)(1)(E) and the complete name of the Secretary is used the first time the term appears in a section. The text of 49 App.:1482a(3) is omitted as executed. The reference in the source provisions to ''section 416(b)(3) of the Federal Aviation Act of 1958 [49 App. U.S.C. 1386(b)(3)]'' has been restated as though it were a reference to section 416(b)(4) to correct an apparent error in the Airline Deregulation Act of 1978 (Public Law 95–504, 92 Stat. 1705). Section 24 of H.R. 12611 of the 95th Congress (the derivative source for 416(b)(4)), added section 416(b)(3) to the Federal Aviation Act. Section 29(c) added provisions that eventually were classified as 49 App.:1482a. Those provisions contained a reference to section 416(b)(3). When S. 2493 (passed in lieu of the House bill after being amended to contain much of the text of the House bill) was reported by the conference committee and enacted into law, section 32 added what had been a new 416(b)(3) as a new 416(b)(4). However, the conference committee did not make a corresponding change in the cross-reference in section 37(c), that added 49 App.:1482a. See 124 Cong. Rec. 30714, 30716, 36521, 36524. The word ''scheduled'' is substituted for ''pursuant to flight schedules'' to eliminate unnecessary words. The words ''the same 2 places'' are substituted for ''one pair of points'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''Except as provided in subsection (c) of this section'' are added for clarity. The words ''pursuant to its authority'' are omitted as surplus.

In subsection (c), the word ''passengers'' is substituted for ''persons'' for consistency in the revised title and with other titles of the Code. The words ''through service by the commuter air carrier over the commuter air carrier's routes'' are substituted for ''transportation over its routes'' for clarity. The words ''between air carriers and commuter air carriers'' are omitted as surplus.

§ 41506. Price division filing requirements for foreign air transportation

Every air carrier and foreign air carrier shall keep currently on file with the Secretary of Transportation, if the Secretary requires, the established divisions of all joint prices for foreign air transportation in which the carrier participates.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41506	49 App.:1373(d).	Aug. 23, 1958, Pub. L. 85–726, § 403(d), 72 Stat. 759.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(d)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(B) (related to § 403(d)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.

The words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a price charged or received by an air carrier or foreign air carrier for foreign air transportation, or a classification,

rule, or practice affecting that price or the value of the transportation provided under that price, is or will be unreasonably discriminatory, the Secretary may—

(1) change the price, classification, rule, or practice as necessary to correct the discrimination; and

(2) order the air carrier or foreign air carrier to stop charging or collecting the discriminatory price or carrying out the discriminatory classification, rule, or practice.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41507(a)	49 App.:1482(f) (words after 4th comma).	Aug. 23, 1958, Pub. L. 85–726, § 1002(f), 72 Stat. 789.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41507(b)	49 App.:1482(f) (words before 4th comma).	
	49 App.:1551(b)(1)(E).	

In subsection (a), before clause (1), the words ''individual or joint'' are omitted as surplus. The words ''charged or received'' are substituted for ''demanded, charged, collected, or received'' to eliminate unnecessary words. The words ''unreasonably discriminatory'' are substituted for ''unjustly discriminatory, or unduly preferential, or unduly prejudicial'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. In clause (2), the words ''carrying out'' are substituted for ''enforcing'' for clarity.

In subsection (b), the words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41310, 41503 of this title.

§ 41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a division between air carriers, foreign air carriers, or both, of a joint price for foreign air transportation is or will be unreasonable or unreasonably discriminatory against any of those carriers, the Secretary shall prescribe a reasonable division of the joint price among those carriers. The Secretary may order the adjustment in the division of the joint price to be made retroactively to the date the complaint was filed, the date the order for an investigation was made, or a later date the Secretary decides is reasonable.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1135.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41508(a)	49 App.:1482(h) (words after 3d comma).	Aug. 23, 1958, Pub. L. 85–726, § 1002(h), 72 Stat. 790; Nov. 9, 1977, Pub. L. 95–163, § 18(c), 91 Stat. 1287.
	49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(5)(D) (related to § 1002(h)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.
41508(b)	49 App.:1482(h) (words before 3d comma).	
	49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)), (b)(1)(E).	

In subsection (a), the words ''interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the state of Hawaii, or overseas or'' are omitted because 49:1551(a)(5)(D) provides that 49 App.:1482(h) applies only to foreign air transportation. The words ''unreasonable or unreasonably discriminatory'' are substituted for ''unjust, unreasonable, inequitable, or unduly preferential or prejudicial'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. The words ''against any of those carriers'' are substituted for ''as between the air carriers or foreign air carriers parties thereto'' to eliminate unnecessary words. The word ''retroactively'' is added for clarity.

In subsection (b), the words ''an opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41505 of this title.

§ 41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation

(a) CANCELLATION AND REJECTION.—(1) On the initiative of the Secretary of Transportation or on a complaint filed with the Secretary, the Secretary may conduct a hearing to decide whether a price for foreign air transportation contained in an existing or newly filed tariff of an air carrier or foreign air carrier, a classification, rule, or practice affecting that price, or the value of the transportation provided under that price, is lawful. The Secretary may begin the hearing at once and without an answer or another formal pleading by the air carrier or foreign air carrier, but only after reasonable notice. If, after the hearing, the Secretary decides that the price, classification, rule, or practice is or will be unreasonable or unreasonably discriminatory, the Secretary may cancel or reject the tariff and prevent the use of the price, classification, rule, or practice.

(2) With or without a hearing, the Secretary may cancel or reject an existing or newly filed tariff of a foreign air carrier and prevent the use of a price, classification, rule, or practice when the Secretary decides that the cancellation or rejection is in the public interest.

(3) In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection, the Secretary shall consider—

(A) the effect of the price on the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation by air carriers and foreign air carriers at the lowest cost consistent with providing the transportation;

(C) the standards prescribed under law related to the character and quality of transportation to be provided by air carriers and foreign air carriers;

(D) the inherent advantages of transportation by aircraft;

(E) the need of the air carrier and foreign air carrier for revenue sufficient to enable the air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier transportation;

(F) whether the price will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation;

(G) reasonably estimated or foreseeable future costs and revenues for the air carrier or foreign air carrier for a reasonably limited future period during which the price would be in effect; and

(H) other factors.

(b) SUSPENSION.—(1)(A) Pending a decision under subsection (a)(1) of this section, the Secretary may suspend a tariff and the use of a price contained in the tariff or a classification, rule, or practice affecting that price.

(B) The Secretary may suspend a tariff of a foreign air carrier and the use of a price, classification, rule, or practice when the suspension is in the public interest.

(2) A suspension becomes effective when the Secretary files with the tariff and delivers to the air carrier or foreign air carrier affected by the suspension a written statement of the reasons for the suspension. To suspend a tariff, reasonable notice of the suspension must be given to the affected carrier.

(3) The suspension of a newly filed tariff may be for periods totaling not more than 365 days after the date the tariff otherwise would go into effect. The suspension of an existing tariff may be for periods totaling not more than 365 days after the effective date of the suspension. The Secretary may rescind at any time the suspension of a newly filed tariff and allow the price, classification, rule, or practice to go into effect.

(c) EFFECTIVE TARIFFS AND PRICES WHEN TARIFF IS SUSPENDED, CANCELED, OR REJECTED.—(1) If a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section and the Secretary does not take final action in the proceeding during the suspension period, the tariff goes into effect at the end of that period subject to cancellation when the proceeding is concluded.

(2)(A) During the period of suspension, or after the cancellation or rejection, of a newly filed tariff (including a tariff that has gone into effect provisionally), the affected air carrier or foreign air carrier shall maintain in effect and use—

(i) the corresponding seasonal prices, or the classifications, rules, and practices affecting those prices or the value of transportation provided under those prices, that were in effect for the carrier immediately before the new tariff was filed; or

(ii) another price provided for under an applicable intergovernmental agreement or understanding.

(B) If the suspended, canceled, or rejected tariff is the first tariff of the carrier for the covered transportation, the carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice affecting the price, or the value of the transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(3) If an existing tariff is suspended or canceled, the affected air carrier or foreign air carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice affecting the price, or the value of the transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(d) RESPONSE TO REFUSAL OF FOREIGN COUNTRY TO ALLOW AIR CARRIER TO CHARGE A PRICE.—When the Secretary finds that the government or an aeronautical authority of a foreign country has refused to allow an air carrier to charge a price contained in a tariff filed and published under section 41504 of this title for foreign air transportation to the foreign country—

(1) the Secretary, without a hearing—

(A) may suspend any existing tariff of a foreign air carrier providing transportation between the United States and the foreign country for periods totaling not more than 365 days after the date of the suspension; and

(B) may order the foreign air carrier to charge, during the suspension periods, prices that are the same as those contained in a tariff (designated by the Secretary) of an air carrier filed and published under section 41504 of this title for foreign air transportation to the foreign country; and

(2) a foreign air carrier may continue to provide foreign air transportation to the foreign country only if the government or aeronautical authority of the foreign country allows an air carrier to start or continue foreign air transportation to the foreign country at the prices designated by the Secretary.

(e) STANDARD FOREIGN FARE LEVEL.—(1)(A) In this subsection, ''standard foreign fare level'' means—

(i) for a class of fares existing on October 1, 1979, the fare between 2 places (as adjusted under subparagraph (B) of this paragraph) filed for and allowed by the Civil Aeronautics Board to go into effect after September 30, 1979, and before August 13, 1980 (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), or the fare established under section 1002(j)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 24(a) of the International Air Transportation Competi-

tion Act of 1979 (Public Law 96–192, 94 Stat. 46); or

(ii) for a class of fares established after October 1, 1979, the fare between 2 places in effect on the effective date of the establishment of the new class.

(B) At least once every 60 days for fuel costs, and at least once every 180 days for other costs, the Secretary shall adjust the standard foreign fare level for the particular foreign air transportation to which the standard foreign fare level applies by increasing or decreasing that level by the percentage change from the last previous period in the actual operating cost for each available seat-mile. In adjusting a standard foreign fare level, the Secretary may not make an adjustment to costs actually incurred. In establishing a standard foreign fare level and making adjustments in the level under this paragraph, the Secretary may use all relevant or appropriate information reasonably available to the Secretary.

(2) The Secretary may not decide that a proposed fare for foreign air transportation is unreasonable on the basis that the fare is too low or too high if the proposed fare is neither more than 5 percent higher nor 50 percent lower than the standard foreign fare level for the same or essentially similar class of transportation. The Secretary by regulation may increase the 50 percent specified in this paragraph.

(3) Paragraph (2) of this subsection does not apply to a proposed fare that is not more than—

(A) 5 percent higher than the standard foreign fare level when the Secretary decides that the proposed fare may be unreasonably discriminatory or that suspension of the fare is in the public interest because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier; or

(B) 50 percent lower than the standard foreign fare level when the Secretary decides that the proposed fare may be predatory or discriminatory or that suspension of the fare is required because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier.

(f) SUBMISSION OF ORDERS TO PRESIDENT.—The Secretary shall submit to the President an order made under this section suspending, canceling, or rejecting a price for foreign air transportation, and an order rescinding the effectiveness of such an order, before publishing the order. Not later than 10 days after its submission, the President may disapprove the order on finding disapproval is necessary for United States foreign policy or national defense reasons.

(g) COMPLIANCE AS CONDITION OF CERTIFICATE OR PERMIT.—This section and compliance with an order of the Secretary under this section are conditions to any certificate or permit held by an air carrier or foreign air carrier. An air carrier or foreign air carrier may provide foreign air transportation only as long as the carrier maintains prices for that transportation that comply with this section and orders of the Secretary under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1135.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41509(a)(1) ..	49 App.:1482(j)(1) (1st sentence words before semicolon, 2d sentence related to tariffs of air carriers and foreign air carriers), (2) (1st sentence words before semicolon, 2d sentence related to tariffs of air carriers and foreign air carriers).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(1), (2); added Mar. 22, 1972, Pub. L. 92–259, §3(a), 86 Stat. 96; restated Feb. 15, 1980, Pub. L. 96–192, §§14, 15, 94 Stat. 40.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(c)(3)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41509(a)(2) ..	49 App.:1482(j)(1) (2d sentence related to tariffs of foreign air carriers), (2) (2d sentence related to tariffs of foreign air carriers).	
	49 App.:1551(b)(1)(E).	
41509(a)(3) ..	49 App.:1482(j)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(5); added Mar. 22, 1972, Pub. L. 92–259, §3(a), 86 Stat. 98; Feb. 15, 1980, Pub. L. 96–192, §16, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	
41509(b)	49 App.:1373(c)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §403(c)(3); added Oct. 24, 1978, Pub. L. 95–504, §22, 92 Stat. 1724.
	49 App.:1482(j)(1) (1st sentence words after semicolon, 3d sentence), (2) (1st sentence words after semicolon).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(3)), (b)(1)(E).	
41509(c)(1) ..	49 App.:1482(j)(1) (4th sentence), (2) (3d sentence).	
	49 App.:1551(b)(1)(E).	
41509(c)(2) ..	49 App.:1482(j)(1) (5th, last sentences).	
41509(c)(3) ..	49 App.:1482(j)(2) (last sentence).	
41509(d)	49 App.:1482(j)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(3), (4); added Mar. 22, 1972, Pub. L. 92–259, §3(a), 86 Stat. 98.
	49 App.:1551(b)(1)(E).	
41509(e)(1)(A).	49 App.:1482(j)(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(6), (7), (9), (10); added Feb. 15, 1980, Pub. L. 96–192, §24(a), 94 Stat. 45, 47.
41509(e)(1)(B).	49 App.:1482(j)(9).	
	49 App.:1551(b)(1)(E).	
41509(e)(2), (3).	49 App.:1482(j)(6), (10).	
	49 App.:1551(b)(1)(E).	
41509(f)	49 App.:1461(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §801(b); added Mar. 22, 1972, Pub. L. 92–259, §2, 86 Stat. 96.
	49 App.:1551(b)(1)(E).	
41509(g)	49 App.:1482(j)(4).	
	49 App.:1551(b)(1)(E).	

In subsection (a)(1) and (2), the words ''take action to'' are omitted as surplus.

In subsection (a)(1), the words ''individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air car-

rier or carriers)'' and ''and, if it so orders'' are omitted as surplus. The words ''unreasonable or unreasonably discriminatory'' are substituted for ''unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101.

In subsection (a)(3), before clause (A), the words ''In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection'' are substituted for ''In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property'' for consistency in this section and to eliminate unnecessary words. In clause (B), the words ''of persons and property'' are omitted as surplus.

In subsection (b)(1), the words ''contained in the tariff'' are added for clarity.

In subsection (b)(1)(A), the words ''such hearing and'' are omitted as surplus.

In subsection (b)(1)(B), the words ''or in the case of'' are omitted as surplus.

In subsection (b)(2), the text of 49 App.:1373(c)(3) is omitted as obsolete. Reference to 49 App.:1482(g) is omitted because 49 App.:1482(g) does not relate to foreign air transportation and 49 App.:1551(a)(5)(D) provides that 49 App.:1482(g) ceased to be in effect on January 1, 1985, except insofar as it related to foreign air transportation. Reference to 49 App.:1482(j) is omitted because it consistently has been interpreted that the minimum notice requirement does not apply to foreign air transportation.

In subsection (b)(3), the words ''for periods totaling not more than 365 days after'' are substituted for ''a period or periods not exceeding 365 days in the aggregate beyond the time when'' and ''a period or periods not exceeding 365 days in the aggregate from'' to eliminate unnecessary words.

In subsection (c)(1), the words ''a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section'' are added for clarity. The words ''and the Secretary does not take final action in the proceeding during the suspension period'' are substituted for ''the proceeding has not been concluded and an order made within the period of suspension or suspensions'' and ''the proceeding has not been concluded within the period of suspension or suspensions'' to eliminate unnecessary words. The words ''or if the Board shall otherwise so direct'' are omitted as surplus because under subsection (b)(3) of this section the Secretary may rescind a suspension at any time.

In subsection (c)(2)(A), before clause (i), the words ''or suspensions'' are omitted because of 1:1. In clause (i), the words ''corresponding seasonal'' are added for clarity.

In subsection (c)(2)(B) and (3), the words ''providing the same transportation'' are substituted for ''engaged in the same foreign air transportation'' for consistency in this chapter and to eliminate unnecessary words.

In subsection (c)(2)(B), the words ''of the carrier for the covered transportation'' and ''during the period of suspension or'' are added for clarity.

In subsection (c)(3), the words ''If an existing tariff is suspended or canceled'' are added for clarity. The words ''following cancellation of an existing tariff'' are omitted as surplus.

In subsection (d), the word ''properly'' is omitted as surplus. In clause (1)(A), the words ''the operation of'' are omitted as surplus. The words ''periods totaling not more than 365 days after the date of the suspension'' are substituted for ''for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension'' for clarity and to eliminate unnecessary words. In subclause (B), the words ''or suspensions'' are omitted because of 1:1. In clause (2), the words ''by the Secretary'' are added for clarity.

In subsection (e)(1)(B), the words ''within 30 days after February 15, 1980'' are omitted as executed. The words ''as the case may be'' are omitted as surplus.

In subsection (e)(2), the text of 49 App.:1482(j)(6)(A) is omitted as expired. The words ''with respect to any proposed increase filed with the Board after the 180th day after February 15, 1980'' and ''with respect to any proposed decrease filed after February 15, 1980'' are omitted as obsolete. The words ''of persons'' are omitted as surplus because a ''fare'' is only for passengers. The words ''The Secretary by regulation may increase the 50 percent specified in this paragraph'' are substituted for 49 App.:1482(j)(10) for clarity.

In subsection (e)(3)(A), the words ''unreasonably discriminatory'' are substituted for ''unduly preferential, unduly prejudicial, or unjustly discriminatory'' to eliminate unnecessary words and for consistency in the revised title. See the revision notes following 49:10101.

In subsection (g), the words ''express'' and ''now . . . or hereafter issued'' are omitted as surplus. The words ''may provide foreign air transportation only as long as'' are substituted for ''shall be a condition to the continuation of the affected service'' for clarity.

REFERENCES IN TEXT

Section 1002(j)(8) of the Federal Aviation Act of 1958, referred to in subsec. (e)(1)(A)(i), is section 1002(j)(8) of Pub. L. 85–726, which was classified to section 1482(j)(8) of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41310, 41504, 41505, 46110 of this title.

§ 41510. Required adherence to foreign air transportation tariffs

(a) PROHIBITED ACTIONS BY AIR CARRIERS, FOREIGN AIR CARRIERS, AND TICKET AGENTS.—An air carrier, foreign air carrier, or ticket agent may not—

(1) charge or receive compensation for foreign air transportation that is different from the price specified in the tariff of the carrier that is in effect for that transportation;

(2) refund or remit any part of the price specified in the tariff; or

(3) extend to any person a privilege or facility, related to a matter required by the Secretary of Transportation to be specified in a tariff for foreign air transportation, except as specified in the tariff.

(b) PROHIBITED ACTIONS BY ANY PERSON.—A person may not knowingly—

(1) pay compensation for foreign air transportation of property that is different from the price specified in the tariff in effect for that transportation; or

(2) solicit, accept, or receive—

(A) a refund or remittance of any part of the price specified in the tariff; or

(B) a privilege or facility, related to a matter required by the Secretary to be specified in a tariff for foreign air transportation of property, except as specified in the tariff.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1138.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41510(a)	49 App.:1373(b)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 403(b)(1) (1st sentence), 72 Stat. 759; restated Jan. 3, 1975, Pub. L. 93–623, §§ 7(a), 8(a), 88 Stat. 2105.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(a) (4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(b)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41510(b)	49 App.:1373(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §403(b)(2); added Jan. 3, 1975, Pub. L. 93–623, §8(a), 88 Stat. 2105.
	49 App.:1551(a) (4)(B) (related to 49 App.:1373(b)(2)), (b)(1)(E).	

In this section, the words ''greater or less'' are omitted as being included in ''different''. The words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs prices for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The words ''for any service in connection therewith'' are omitted as surplus because the word ''transportation'' includes any services related to the transportation.

In subsection (a), before clause (1), the words ''may not'' are substituted for ''no . . . shall'' and ''no . . . shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise'' for clarity and to eliminate unnecessary words. In clause (1), the words ''demand or collect'' are omitted as being included in ''charge or receive''. The words ''then currently'' are omitted as surplus. In clause (3), the words ''tariff for foreign air transportation'' are substituted for ''such tariffs'' for clarity.

In subsection (b), before clause (1), the words ''shipper, consignor, consignee, forwarder, broker, or other . . . or any director, officer, agent, or employee thereof'' are omitted as surplus. In clause (1), the words ''directly or indirectly, by any device or means'' and ''currently'' are omitted as surplus. In clause (2), before subclause (A), the words ''in any manner or by any device, directly or indirectly, through any agent or broker, or otherwise'' are omitted as surplus. In subclause (B), the word ''favor'' is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§41511. Special prices for foreign air transportation

(a) FREE AND REDUCED PRICING.—This chapter does not prohibit an air carrier or foreign air carrier, under terms the Secretary of Transportation prescribes, from issuing or interchanging tickets or passes for free or reduced-price foreign air transportation to or for the following:

(1) a director, officer, or employee of the carrier (including a retired director, officer, or employee who is receiving retirement benefits from an air carrier or foreign air carrier).

(2) a parent or the immediate family of such an officer or employee or the immediate family of such a director.

(3) a widow, widower, or minor child of an employee of the carrier who died as a direct result of a personal injury sustained when performing a duty in the service of the carrier.

(4) a witness or attorney attending a legal investigation in which the air carrier is interested.

(5) an individual injured in an aircraft accident and a physician or nurse attending the individual.

(6) a parent or the immediate family of an individual injured or killed in an aircraft accident when the transportation is related to the accident.

(7) an individual or property to provide relief in a general epidemic, pestilence, or other emergency.

(8) other individuals under other circumstances the Secretary prescribes by regulation.

(b) SPACE-AVAILABLE BASIS.—Under terms the Secretary prescribes, an air carrier or foreign air carrier may grant reduced-price foreign air transportation on a space-available basis to the following:

(1) a minister of religion.

(2) an individual who is at least 60 years of age and no longer gainfully employed.

(3) an individual who is at least 65 years of age.

(4) an individual who has severely impaired vision or hearing or another physical or mental handicap and an accompanying attendant needed by that individual.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1139.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41511(a)	49 App.:1373(b)(1) (2d sentence).	Aug. 23, 1958, Pub. L. 85–726, §403(b)(1) (2d– last sentences), 72 Stat. 759; July 12, 1960, Pub. L. 86–627, 74 Stat. 445; Jan. 3, 1975, Pub. L. 93–623, §8(a), 88 Stat. 2105; Nov. 9, 1977, Pub. L. 95–163, §8(a), 91 Stat. 1281.
	49 App.:1551(a) (4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(b)(1)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41511(b)	49 App.:1373(b)(1) (3d–last sentences).	
	49 App.:1551(a) (4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	

In this section, the words ''foreign air transportation'' are substituted for ''transportation'' and ''in the case of overseas or foreign air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The word ''conditions'' is omitted as being included in ''terms''.

In subsection (a)(7), the words ''or other emergency'' are substituted for ''other calamitous visitation'' for consistency.

In subsection (b)(2), the words ''no longer gainfully employed'' are substituted for ''retired'' and ''For purposes of this subsection, the term 'retired' means no longer gainfully employed as defined by the Board'' to eliminate unnecessary words.

In subsection (b)(4), the words ''an individual who has severely impaired vision or hearing or another physical or mental handicap'' are substituted for ''handicapped person'' and ''For the purposes of this subsection, the

term 'handicapped person' means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

CHAPTER 417—OPERATIONS OF CARRIERS

SUBCHAPTER I—REQUIREMENTS

Sec.
41701. Classification of air carriers.
41702. Interstate air transportation.
41703. Navigation of foreign civil aircraft.
41704. Transporting property not to be transported in aircraft cabins.
41705. Discrimination against handicapped individuals.
41706. Prohibitions against smoking on scheduled flights.
41707. Incorporating contract terms into written instrument.
41708. Reports.
41709. Records of air carriers.
41710. Time requirements.
41711. Air carrier management inquiry and cooperation with other authorities.
41712. Unfair and deceptive practices and unfair methods of competition.
41713. Preemption of authority over prices, routes, and service.
41714. Availability of slots.
41715. Air service termination notice.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

41731. Definitions.
41732. Basic essential air service.
41733. Level of basic essential air service.
41734. Ending, suspending, and reducing basic essential air service.
41735. Enhanced essential air service.
41736. Air transportation to noneligible places.
41737. Compensation guidelines, limitations, and claims.
41738. Fitness of air carriers.
41739. Air carrier obligations.
41740. Joint proposals.
41741. Insurance.
41742. Ending effective date.

AMENDMENTS

1994—Pub. L. 103–429, § 6(52), Oct. 31, 1994, 108 Stat. 4385, made technical correction to chapter heading.

Pub. L. 103–305, title II, §§ 206(b), 207(b), Aug. 23, 1994, 108 Stat. 1587, 1588, added items 41714 and 41715.

SUBCHAPTER I—REQUIREMENTS

§ 41701. Classification of air carriers

The Secretary of Transportation may establish—

(1) reasonable classifications for air carriers when required because of the nature of the transportation provided by them; and

(2) reasonable requirements for each class when the Secretary decides those requirements are necessary in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41701	49 App.:1386(a).	Aug. 23, 1958, Pub. L. 85–726, § 416(a), 72 Stat. 771.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''from time to time'' are omitted as unnecessary. In clauses (1) and (2), the word ''just'' is omitted as being included in ''reasonable''. In clause (1), the word ''groups'' is omitted as being included in ''classifications''. The words ''transportation provided'' are substituted for ''services performed'' for consistency in the revised title. In clause (2), the word ''requirements'' is substituted for ''rules and regulations pursuant to and consistent with the provisions of this subchapter'' as being more appropriate and for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41702. Interstate air transportation

An air carrier shall provide safe and adequate interstate air transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41702	49 App.:1374(a)(1).	Aug. 23, 1958, Pub. L. 85–726, § 404(a)(1), 72 Stat. 760; Mar. 22, 1972, Pub. L. 92–259, § 1, 86 Stat. 95; Oct. 24, 1978, Pub. L. 95–504, § 23, 92 Stat. 1724.
	49 App.:1551(a)(4)(C) (related to 49 App.:1374(a)(1)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(C) (related to § 404(a)(1)); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1703.

This section is substituted for 49 App.:1374(a)(1) because 49 App.:1551(a)(4)(C) provides that 49 App.:1374 no longer applies to interstate or overseas air transportation except insofar as 49 App.:1374 requires air carriers to provide safe and adequate service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41703. Navigation of foreign civil aircraft

(a) PERMITTED NAVIGATION.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States only—

(1) if the country of registry grants a similar privilege to aircraft of the United States;

(2) by an airman holding a certificate or license issued or made valid by the United States Government or the country of registry;

(3) if the Secretary of Transportation authorizes the navigation; and

(4) if the navigation is consistent with terms the Secretary may prescribe.

(b) REQUIREMENTS FOR AUTHORIZING NAVIGATION.—The Secretary may authorize navigation under this section only if the Secretary decides the authorization is—

(1) in the public interest; and

(2) consistent with any agreement between the Government and the government of a foreign country.

(c) PROVIDING AIR COMMERCE.—The Secretary may authorize an aircraft permitted to navigate in the United States under this section to provide air commerce in the United States. However, the aircraft may take on for compensation, at a place in the United States, passengers or cargo destined for another place in the United States only if—

(1) specifically authorized under section 40109(g) of this title; or

(2) under regulations the Secretary prescribes authorizing air carriers to provide otherwise authorized air transportation with foreign registered aircraft under lease or charter to them without crew.

(d) PERMIT REQUIREMENTS NOT AFFECTED.—This section does not affect section 41301 or 41302 of this title. However, a foreign air carrier holding a permit under section 41302 does not need to obtain additional authorization under this section for an operation authorized by the permit.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41703(a)	49 App.:1508(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1108(b) (1st, 2d, last sentences), 72 Stat. 798, 799.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41703(b)	49 App.:1508(b) (2d sentence).	
	49 App.:1551(b)(1)(E).	
41703(c)	49 App.:1508(b) (3d sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1108(b) (3d sentence), 72 Stat. 799; Feb. 15, 1980, Pub. L. 96–192, § 20, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	
41703(d)	49 App.:1508(b) (last sentence).	

In subsection (a), the word ''country'' is substituted for ''nation'' for consistency in the revised title and with other titles of the United States Code. In clause (3), the words ''permit, order, or regulation issued'' are omitted as surplus. In clause (4), the words ''conditions, and limitations'' are omitted as being included in ''terms''.

In subsection (b)(2), the word ''agreement'' is substituted for ''treaty, convention, or agreement'' for clarity and consistency in the revised title. The words ''which may be in force'' are omitted as surplus. The words ''or countries'' are omitted because of 1:1.

In subsection (c), before clause (1), the word ''place'' is substituted for ''point'', and the word ''passengers'' is substituted for ''persons'', for consistency in the revised title.

In subsection (d), the word ''affect'' is substituted for ''limit, modify, or amend'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40103, 44101 of this title.

§ 41704. Transporting property not to be transported in aircraft cabins

Under regulations or orders of the Secretary of Transportation, an air carrier shall transport as baggage the property of a passenger traveling in air transportation that may not be carried in an aircraft cabin because of a law or regulation of the United States. The carrier is liable to pay an amount not more than the amount declared to the carrier by that passenger for actual loss of, or damage to, the property caused by the carrier. The carrier may impose reasonable charges and conditions for its liability.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41704	49 App.:1516.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1116; added Aug. 5, 1974, Pub. L. 93–366, § 205, 88 Stat. 418.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

The words ''as may be necessary'', ''which . . . lawfully'', and ''by such person'' are omitted as surplus. The words ''The carrier is liable to pay an amount not more than'' are substituted for ''shall assume liability . . . within'' for clarity. The words ''to such person'' are omitted as surplus. The words ''The carrier may impose'' are added for clarity. The words ''terms and'' are omitted as covered by ''conditions''.

§ 41705. Discrimination against handicapped individuals

In providing air transportation, an air carrier may not discriminate against an otherwise qualified individual on the following grounds:

(1) the individual has a physical or mental impairment that substantially limits one or more major life activities.

(2) the individual has a record of such an impairment.

(3) the individual is regarded as having such an impairment.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41705	49 App.:1374(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 404(c); added Oct. 2, 1986, Pub. L. 99–435, § 2(a), 100 Stat. 1080.

In this section, before clause (1), the words ''on the following grounds'' are substituted for ''by reason of such handicap'' and ''For purposes of paragraph (1) of this subsection the term 'handicapped individual' means any individual who'' because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41706. Prohibitions against smoking on scheduled flights

(a) GENERAL.—An individual may not smoke in the passenger cabin or lavatory of an aircraft on a scheduled airline flight segment in air transportation or intrastate air transportation that is—

(1) between places in a State of the United States, the District of Columbia, Puerto Rico, or the Virgin Islands;

(2) between a place in any jurisdiction referred to in clause (1) of this subsection (except Alaska and Hawaii) and a place in any other of those jurisdictions; or

(3)(A) scheduled for not more than 6 hours' duration; and

(B)(i) between a place referred to in clause (1) of this subsection (except Alaska and Hawaii) and Alaska or Hawaii; or

(ii) between Alaska and Hawaii.

(b) REGULATIONS.—The Secretary of Transportation shall prescribe regulations necessary to carry out this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41706	49 App.:1374(d)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 404(d)(1); added Dec. 22, 1987, Pub. L. 100–202, § 328(a), 101 Stat. 1329–382; Nov. 21, 1989, Pub. L. 101–164, § 335 (less effective date), 103 Stat. 1098, 1099.
	49 App.:1374 (note).	Nov. 21, 1989, Pub. L. 101–164, § 335 (related to effective date), 103 Stat. 1099.

In subsection (a), before clause (1), the words ''On and after the date of expiration of the 4-month period following December 22, 1987'' are omitted as executed. The words ''of an aircraft'' are added for clarity. The text of 49 App.:1374 (note) is omitted as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41707. Incorporating contract terms into written instrument

To the extent the Secretary of Transportation prescribes by regulation, an air carrier may incorporate by reference in a ticket or written instrument any term of the contract for providing interstate air transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41707	49 App.:1381(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 411(b); added Oct. 4, 1984, Pub. L. 98–443, § 7(a), 98 Stat. 1706.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41708. Reports

(a) APPLICATION.—To the extent the Secretary of Transportation finds necessary to carry out this subpart, this section and section 41709 of this title apply to a person controlling an air carrier or affiliated (within the meaning of section 11343(c) of this title) with a carrier.

(b) REQUIREMENTS.—The Secretary may require an air carrier or foreign air carrier—

(1)(A) to file annual, monthly, periodical, and special reports with the Secretary in the form and way prescribed by the Secretary; and

(B) to file the reports under oath;

(2) to provide specific answers to questions on which the Secretary considers information to be necessary; and

(3) to file with the Secretary a copy of each agreement, arrangement, contract, or understanding between the carrier and another carrier or person related to transportation affected by this subpart.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41708(a)	49 App.:1377(e) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, § 407(e) (last sentence), 72 Stat. 766.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41708(b)	49 App.:1377(a).	Aug. 23, 1958, Pub. L. 85–726, § 407(a), 72 Stat. 766; Feb. 15, 1980, Pub. L. 96–192, § 10, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word ''reasonably'' is omitted as surplus. The words ''carry out'' are substituted for ''administration'' for consistency in the revised title. The words ''section 11343(c) of this title'' are substituted for ''section 5(8) of the Interstate Commerce Act, as amended'' in section 407(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 766), to cite the corresponding section of the revised title and correct the inaccurate reference to the definition of ''affiliate''.

In subsection (b)(3), the word ''copy'' is substituted for ''true copy'' to eliminate an unnecessary word. The word ''transportation'' is substituted for ''traffic'' for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41709. Records of air carriers

(a) REQUIREMENTS.—The Secretary of Transportation shall prescribe the form of records to be kept by an air carrier, including records on the movement of traffic, receipts and expenditures of money, and the time period during which the records shall be kept. A carrier may keep only records prescribed or approved by the Secretary. However, a carrier may keep additional records if the additional records do not impair the integrity of the records prescribed or approved by the Secretary and are not an unreasonable financial burden on the carrier.

(b) INSPECTION.—(1) The Secretary at any time may—

(A) inspect the land, buildings, and equipment of an air carrier or foreign air carrier when necessary to decide under subchapter II of this chapter or section 41102, 41103, or 41302 of this title whether a carrier is fit, willing, and able; and

(B) inspect records kept or required to be kept by an air carrier, foreign air carrier, or ticket agent.

(2) The Secretary may employ special agents or auditors to carry out this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41709(a)	49 App.:1377(d).	Aug. 23, 1958, Pub. L. 85–726, § 407(d), 72 Stat. 766.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41709(b)	49 App.:1377(e) (1st–3d sentences).	Aug. 23, 1958, Pub. L. 85–726, § 407(e) (1st–3d sentences), 72 Stat. 766; Jan. 3, 1975, Pub. L. 93–623, § 7(b), 88 Stat. 2105; restated Oct. 4, 1984, Pub. L. 98–443, § 9(t), 98 Stat. 1708.
	49 App.:1551(b)(1)(E).	

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

In subsection (b)(1)(A) and (B), the word ''inspect'' is substituted for ''have access to'' for consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words ''to carry out this subsection'' are substituted for ''who shall have authority under the orders of the Board to inspect and examine lands, buildings, equipment, accounts, records, and memorandums to which the Board has access under this subsection'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 41708, 46301 of this title.

§ 41710. Time requirements

When a matter requiring action of the Secretary of Transportation is submitted under section 40109(a) or (c)–(h), 41309, or 42111 of this title and an evidentiary hearing—

(1) is ordered, the Secretary shall make a final decision on the matter not later than the last day of the 12th month that begins after the date the matter is submitted; or

(2) is not ordered, the Secretary shall make a final decision on the matter not later than the last day of the 6th month that begins after the date the matter is submitted.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41710	49 App.:1490.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1010; added Oct. 24, 1978, Pub. L. 95–504, § 38(a), 92 Stat. 1743.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''matter requiring action of the Secretary'' are substituted for ''application or other written document'' for clarity. The reference to 49 App.:1378 and 1379 is omitted as obsolete because under 49 App.:1551(a)(7), those sections ceased to be in effect on January 1, 1989. The words ''on or after the one-hundred-eightieth day after October 24, 1978'' are omitted as executed. In clauses (1) and (2), the words ''order or'' are omitted as surplus.

§ 41711. Air carrier management inquiry and cooperation with other authorities

In carrying out this subpart, the Secretary of Transportation may—

(1) inquire into the management of the business of an air carrier and obtain from the air carrier, and a person controlling, controlled by, or under common control with the carrier, information the Secretary decides reasonably is necessary to carry out the inquiry;

(2) confer and hold a joint hearing with a State authority; and

(3) exchange information related to aeronautics with a government of a foreign country through appropriate departments, agencies, and instrumentalities of the United States Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41711(1)	49 App.:1385.	Aug. 23, 1958, Pub. L. 85–726, §§ 204(b), (c), 415, 72 Stat. 743, 770.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41711(2)	49 App.:1324(b).	
	49 App.:1551(b)(1)(E).	
41711(3)	49 App.:1324(c)	
	49 App.:1551(b)(1)(E).	

In this section, before clause (1), the words ''In carrying out'' are substituted for ''in connection with any matter arising under this chapter within its jurisdiction'' and ''in the administration and enforcement of this chapter'' in 49 App.:1324(b) and ''For the purpose of exercising and performing its powers and duties under this chapter'' in 49 App.:1385, and added (as the words relate to 49 App.:1324(c)), for clarity and consistency in this section. In clause (1), the words ''full and complete reports and other'' are omitted as surplus. In clause (2), the words ''State aeronautical agency, or other'' are omitted as surplus. The text of 49 App.:1324(b) (words after 3d comma) is omitted as surplus because of 49:322(c)(3). In clause (3), the words ''government of a foreign country'' are substituted for ''foreign governments'' for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41712. Unfair and deceptive practices and unfair methods of competition

On the initiative of the Secretary of Transportation or the complaint of an air carrier, foreign air carrier, or ticket agent, and if the Secretary considers it is in the public interest, the Secretary may investigate and decide whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation. If the Secretary, after notice and an opportunity for a hearing, finds that an air carrier, foreign air carrier, or ticket agent is engaged in an unfair or deceptive practice or unfair method of competition, the Secretary shall order the air carrier, foreign air carrier, or ticket agent to stop the practice or method.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1143.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41712	49 App.:1381(a).	Aug. 23, 1958, Pub. L. 85–726, § 411(a), 72 Stat. 769; Oct. 4, 1984, Pub. L. 98–443, § 7(a), 98 Stat. 1706.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

The words ''such action by'' are omitted as surplus. The words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41713. Preemption of authority over prices, routes, and service

(a) DEFINITION.—In this section, ''State'' means a State, the District of Columbia, and a territory or possession of the United States.

(b) PREEMPTION.—(1) Except as provided in this subsection, a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart.

(2) Paragraphs (1) and (4) of this subsection do not apply to air transportation provided entirely in Alaska unless the transportation is air transportation (except charter air transportation) provided under a certificate issued under section 41102 of this title.

(3) This subsection does not limit a State, political subdivision of a State, or political authority of at least 2 States that owns or operates an airport served by an air carrier holding a certificate issued by the Secretary of Transportation from carrying out its proprietary powers and rights.

(4) TRANSPORTATION BY AIR CARRIER OR CARRIER AFFILIATED WITH A DIRECT AIR CARRIER.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier or carrier affiliated with a direct air carrier through common controlling ownership when such carrier is transporting property by aircraft or by motor vehicle (whether or not such property has had or will have a prior or subsequent air movement).

(B) MATTERS NOT COVERED.—Subparagraph (A)—

(i) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization; and

(ii) does not apply to the transportation of household goods, as defined in section 10102 of this title.

(C) APPLICABILITY OF PARAGRAPH (1).—This paragraph shall not limit the applicability of paragraph (1).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 103–305, title VI, § 601(b)(1), (2)(A), Aug. 23, 1994, 108 Stat. 1605, 1606.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41713(a)	49 App.:1305(c), (d) (related to (a), (b)(1), (c)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 105(a)(2), (b)(1), (c), (d) (related to (a), (b)(1), (c)); added Oct. 24, 1978, Pub. L. 95–504, § 4(a), 92 Stat. 1708.
41713(b)(1) ..	49 App.:1305(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 105(a)(1); added Oct. 24, 1978, Pub. L. 95–504, § 4(a), 92 Stat. 1707; Oct. 4, 1984, Pub. L. 98–443, § 9(u), 98 Stat. 1709.
41713(b)(2) ..	49 App.:1305(a)(2). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41713(b)(3) ..	49 App.:1305(b)(1). 49 App.:1551(b)(1)(E).	

In subsection (a), the words ''the term'' are omitted as surplus. The words ''the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and'' are omitted as surplus because of the definition of ''territory or possession of the United States'' in section 40102(a) of the revised title, 48:734, and section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. The text of 49 App.:1305(c) is omitted as obsolete.

In subsection (b)(1) and (3), the words ''interstate agency or other'' are omitted as surplus. The word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word ''rule'' is omitted as being synonymous with ''regulation''. The words ''standard'' and ''having authority'' are omitted as surplus.

In subsection (b)(2), the words ''pursuant to a certificate issued by the Board'', ''by air of persons, property, or mail'', and ''the State of'' are omitted as surplus.

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103–305, § 601(b)(2)(A), substituted ''Paragraphs (1) and (4) of this subsection do'' for ''Paragraph (1) of this subsection does''.

Subsec. (b)(4). Pub. L. 103–305, § 601(b)(1), added par. (4).

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11501 of this title.

§ 41714. Availability of slots

(a) MAKING SLOTS AVAILABLE FOR ESSENTIAL AIR SERVICE.—

(1) OPERATIONAL AUTHORITY.—If basic essential air service under subchapter II of this chapter is to be provided from an eligible

point to a high density airport (other than Washington National Airport), the Secretary of Transportation shall ensure that the air carrier providing or selected to provide such service has sufficient operational authority at the high density airport to provide such service. The operational authority shall allow flights at reasonable times taking into account the needs of passengers with connecting flights.

(2) EXEMPTIONS.—If necessary to carry out the objectives of paragraph (1), the Secretary shall by order grant exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to air carriers using Stage 3 aircraft or to commuter air carriers, unless such an exemption would significantly increase operational delays.

(3) ASSURANCE OF ACCESS.—If the Secretary finds that an exemption under paragraph (2) would significantly increase operational delays, the Secretary shall take such action as may be necessary to ensure that an air carrier providing or selected to provide basic essential air service is able to obtain access to a high density airport; except that the Secretary shall not be required to make slots available at O'Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service (including slots specifically designated as essential air service slots and slots used for such purposes) to and from such airport is at least 132 slots.

(4) ACTION BY THE SECRETARY.—The Secretary shall issue a final order under this subsection on or before the 60th day after receiving a request from an air carrier for operational authority under this subsection.

(b) SLOTS FOR FOREIGN AIR TRANSPORTATION.—

(1) EXEMPTIONS.—If the Secretary finds it to be in the public interest at a high density airport (other than Washington National Airport), the Secretary may grant by order exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable air carriers and foreign air carriers to provide foreign air transportation using Stage 3 aircraft.

(2) SLOT WITHDRAWALS.—The Secretary may not withdraw a slot from an air carrier in order to allocate that slot to a carrier to provide foreign air transportation if the withdrawal of that slot would result in the withdrawal of slots from an air carrier at O'Hare International Airport under section 93.223 of title 14, Code of Federal Regulations, in excess of the total withdrawn from that air carrier as of October 31, 1993.

(3) EQUIVALENT RIGHTS OF ACCESS.—The Secretary shall not take a slot at a high density airport from an air carrier and award such slot to a foreign air carrier if the Secretary determines that air carriers are not provided equivalent rights of access to airports in the country of which such foreign air carrier is a citizen.

(4) PERIOD OF EFFECTIVENESS.—This subsection and exemptions issued under this subsection shall cease to be in effect when the final rules issued under subsection (f) become effective.

(c) SLOTS FOR NEW ENTRANTS.—

(1) IN GENERAL.—If the Secretary finds it to be in the public interest and the circumstances to be exceptional, the Secretary may by order grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable new entrant air carriers to provide air transportation at high density airports (other than Washington National Airport).

(2) PERIOD OF EFFECTIVENESS.—Exemptions issued under this subsection shall cease to be in effect on or after the date on which the final rules issued under subsection (f) become effective.

(d) SPECIAL RULES FOR WASHINGTON NATIONAL AIRPORT.—

(1) IN GENERAL.—Notwithstanding sections 6005(c)(5) and 6009(e) of the Metropolitan Washington Airports Act of 1986, or any provision of this section, the Secretary may, only under circumstances determined by the Secretary to be exceptional, grant by order to an air carrier currently holding or operating a slot at Washington National Airport an exemption from requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at Washington National Airport), to enable that carrier to provide air transportation with Stage 3 aircraft at Washington National Airport; except that such exemption shall not—

(A) result in an increase in the total number of slots per day at Washington National Airport;

(B) result in an increase in the total number of slots at Washington National Airport from 7:00 ante meridiem to 9:59 post meridiem;

(C) increase the number of operations at Washington National Airport in any 1-hour period by more than 2 operations;

(D) result in the withdrawal or reduction of slots operated by an air carrier;

(E) result in a net increase in noise impact on surrounding communities resulting from changes in timing of operations permitted under this subsection; and

(F) continue in effect on or after the date on which the final rules issued under subsection (f) become effective.

(2) LIMITATION ON APPLICABILITY.—Nothing in this subsection shall adversely affect Exemption No. 5133, as from time-to-time amended and extended.

(e) STUDY.—

(1) MATTERS TO BE CONSIDERED.—The Secretary shall continue the Secretary's current examination of slot regulations and shall ensure that the examination includes consideration of—

(A) whether improvements in technology and procedures of the air traffic control system and the use of quieter aircraft make it possible to eliminate the limitations on hourly operations imposed by the high den-

sity rule contained in part 93 of title 14 of the Code of Federal Regulations or to increase the number of operations permitted under such rule;

(B) the effects of the elimination of limitations or an increase in the number of operations allowed on each of the following:

(i) congestion and delay in any part of the national aviation system;

(ii) the impact of noise on persons living near the airport;

(iii) competition in the air transportation system;

(iv) the profitability of operations of airlines serving the airport; and

(v) aviation safety;

(C) the impact of the current slot allocation process upon the ability of air carriers to provide essential air service under subchapter II of this chapter;

(D) the impact of such allocation process upon the ability of new entrant air carriers to obtain slots in time periods that enable them to provide service;

(E) the impact of such allocation process on the ability of foreign air carriers to obtain slots;

(F) the fairness of such process to air carriers and the extent to which air carriers are provided equivalent rights of access to the air transportation market in the countries of which foreign air carriers holding slots are citizens;

(G) the impact, on the ability of air carriers to provide domestic and international air service, of the withdrawal of slots from air carriers in order to provide slots for foreign air carriers; and

(H) the impact of the prohibition on slot withdrawals in subsections (b)(2) and (b)(3) of this section on the aviation relationship between the United States Government and foreign governments, including whether the prohibition in such subsections will require the withdrawal of slots from general and military aviation in order to meet the needs of air carriers and foreign air carriers providing foreign air transportation (and the impact of such withdrawal on general aviation and military aviation) and whether slots will become available to meet the needs of air carriers and foreign air carriers to provide foreign air transportation as a result of the planned relocation of Air Force Reserve units and the Air National Guard at O'Hare International Airport.

(2) REPORT.—Not later than January 31, 1995, the Secretary shall complete the current examination of slot regulations and shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report containing the results of such examination.

(f) RULEMAKING.—The Secretary shall conduct a rulemaking proceeding based on the results of the study described in subsection (e). In the course of such proceeding, the Secretary shall issue a notice of proposed rulemaking not later than August 1, 1995, and shall issue a final rule not later than 90 days after public comments are due on the notice of proposed rulemaking.

(g) WEEKEND OPERATIONS.—The Secretary shall consider the advisability of revising section 93.227 of title 14, Code of Federal Regulations, so as to eliminate weekend schedules from the determination of whether the 80 percent standard of subsection (a)(1) of that section has been met.

(h) DEFINITIONS.—In this section and section 41734(h), the following definitions apply:

(1) COMMUTER AIR CARRIER.—The term ''commuter air carrier'' means a commuter operator as defined or applied in subpart K or S of part 93 of title 14, Code of Federal Regulations.

(2) HIGH DENSITY AIRPORT.—The term ''high density airport'' means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

(3) NEW ENTRANT AIR CARRIER.—The term ''new entrant air carrier'' means an air carrier that does not hold a slot at the airport concerned and has never sold or given up a slot at that airport after December 16, 1985, and a limited incumbent carrier as defined in subpart S of part 93 of title 14, Code of Federal Regulations.

(4) SLOT.—The term ''slot'' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.

(Added Pub. L. 103–305, title II, § 206(a)(1), Aug. 23, 1994, 108 Stat. 1584.)

REFERENCES IN TEXT

Sections 6005(c)(5) and 6009(e) of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (d)(1), are sections 6005(c)(5) and 6009(e) of Pub. L. 99–500, title VI, Oct. 18, 1986, 100 Stat. 1783–376, 1783–384, and Pub. L. 99–591, title VI, Oct. 30, 1986, 100 Stat. 3341–379, 3341–387, which were classified to sections 2454(c)(5) and 2458(e), respectively, of former Title 49, and were omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives changed to Committee on Transportation and Infrastructure of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

§ 41715. Air service termination notice

(a) IN GENERAL.—An air carrier may not terminate interstate air transportation from a nonhub airport included on the Secretary's latest published list of such airports, unless such air carrier has given the Secretary at least 45 days' notice before such termination.

(b) EXCEPTIONS.—The requirements of subsection (a) shall not apply when—

(1) the carrier involved is experiencing a sudden or unforeseen financial emergency, including natural weather related emergencies, equipment-related emergencies, and strikes;

(2) the termination of transportation is made for seasonal purposes only;

(3) the carrier involved has operated at the affected nonhub airport for 180 days or less;

(4) the carrier involved provides other transportation by jet from another airport serving the same community as the affected nonhub airport; or

(5) the carrier involved makes alternative arrangements, such as a change of aircraft size, or other types of arrangements with a part 121 or part 135 air carrier, that continues uninterrupted service from the affected nonhub airport.

(c) WAIVERS FOR REGIONAL/COMMUTER CARRIERS.—Before January 1, 1995, the Secretary shall establish terms and conditions under which regional/commuter carriers can be excluded from the termination notice requirement.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) NONHUB AIRPORT.—The term ''nonhub airport'' has the meaning that term has under section 41731(a)(4).

(2) PART 121 AIR CARRIER.—The term ''part 121 air carrier'' means an air carrier to which part 121 of title 14, Code of Federal Regulations, applies.

(3) PART 135 AIR CARRIER.—The term ''part 135 air carrier'' means an air carrier to which part 135 of title 14, Code of Federal Regulations, applies.

(4) REGIONAL/COMMUTER CARRIERS.—The term ''regional/commuter carrier'' means—

(A) a part 135 air carrier; or

(B) a part 121 air carrier that provides air transportation exclusively with aircraft having a seating capacity of no more than 70 passengers.

(5) TERMINATION.—The term ''termination'' means the cessation of all service at an airport by an air carrier.

(Added Pub. L. 103–305, title II, § 207(a), Aug. 23, 1994, 108 Stat. 1587; amended Pub. L. 103–429, § 6(53), Oct. 31, 1994, 108 Stat. 4385.)

AMENDMENTS

1994—Subsec. (d)(1). Pub. L. 103–429 substituted ''41731(a)(4)'' for ''41731(a)(3)''.

EFFECTIVE DATE

Section 207(d) of Pub. L. 103–305 provided that: ''The amendments made by this section [enacting this section and amending section 46301 of this title] shall take effect on February 1, 1995.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46301 of this title.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 329, 40117, 41709, 41714 of this title.

§ 41731. Definitions

(a) GENERAL.—In this subchapter—

(1) ''eligible place'' means a place in the United States that—

(A) was an eligible point under section 419 of the Federal Aviation Act of 1958 before October 1, 1988;

(B) received scheduled air transportation at any time after January 1, 1990; and

(C) is not listed in Department of Transportation Orders 89–9–37 and 89–12–52 as a place ineligible for compensation under this subchapter.

(2) ''enhanced essential air service'' means scheduled air transportation to an eligible place of a higher level or quality than basic essential air service described in section 41732 of this title.

(3) ''hub airport'' means an airport that each year has at least .25 percent of the total annual boardings in the United States.

(4) ''nonhub airport'' means an airport that each year has less than .05 percent of the total annual boardings in the United States.

(5) ''small hub airport'' means an airport that each year has at least .05 percent, but less than .25 percent, of the total annual boardings in the United States.

(b) LIMITATION ON AUTHORITY TO DECIDE A PLACE NOT AN ELIGIBLE PLACE.—The Secretary of Transportation may not decide that a place described in subsection (a)(1) of this section is not an eligible place on the basis of a passenger subsidy at that place or on another basis that is not specifically stated in this subchapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1143.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41731(a)(1) ..	49 App.:1389(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(a); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1508; restated Nov. 5, 1990, Pub. L. 101–508, § 9113(a), 104 Stat. 1388–363.
41731(a)(2) ..	49 App.:1389(k)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(k)(2)–(5); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517.
41731(a)(3) ..	49 App.:1389(k)(3).	
41731(a)(4) ..	49 App.:1389(k)(4).	
41731(a)(5) ..	49 App.:1389(k)(5).	
41731(b)	49 App.:1389(a)(2).	

In this subchapter (except subsection (a)(1)(A) of this section), the word ''place'' is substituted for ''point'' for clarity and consistency in the revised title.

In subsection (a)(1)(A), the words ''was an eligible point . . . before October 1, 1988'' are substituted for ''is defined as an eligible point . . . as in effect before October 1, 1988'' for clarity and to eliminate unnecessary words.

In subsection (a)(2), the words ''described in section 41732 of this title'' are added for clarity.

In subsection (a)(3)–(5), the word ''boardings'' is substituted for ''enplanements'' for clarity and consistency in the revised title.

REFERENCES IN TEXT

Section 419 of the Federal Aviation Act of 1958, referred to in subsec. (a)(1)(A), is section 419 of Pub. L.

85–726, which was classified to section 1389 of former Title 49, Transportation, and was repealed and reenacted as this subchapter by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 1143, 1379.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 41715, 46301, 47115 of this title.

§ 41732. Basic essential air service

(a) GENERAL.—Basic essential air service provided under section 41733 of this title is scheduled air transportation of passengers and cargo—

(1) to a hub airport that has convenient connecting or single-plane air service to a substantial number of destinations beyond that airport; or

(2) to a small hub or nonhub airport, when in Alaska or when the nearest hub airport is more than 400 miles from an eligible place.

(b) MINIMUM REQUIREMENTS.—Basic essential air service shall include at least the following:

(1)(A) for a place not in Alaska, 2 daily round trips 6 days a week, with not more than one intermediate stop on each flight; or

(B) for a place in Alaska, a level of service at least equal to that provided in 1976 or 2 round trips a week, whichever is greater, except that the Secretary of Transportation and the appropriate State authority of Alaska may agree to a different level of service after consulting with the affected community.

(2) flights at reasonable times considering the needs of passengers with connecting flights at the airport and at prices that are not excessive compared to the generally prevailing prices of other air carriers for like service between similar places.

(3) for a place not in Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily boardings at the place in any calendar year from 1976-1986 were more than 11 passengers unless—

(A) that level-of-service requirement would require paying compensation in a fiscal year under section 41733(d) or 41734(d) or (e) of this title for the place when compensation otherwise would not have been paid for that place in that year; or

(B) the affected community agrees with the Secretary in writing to the use of smaller aircraft to provide service to the place.

(4) service accommodating the estimated passenger and property traffic at an average load factor, for each class of traffic considering seasonal demands for the service, of not more than—

(A) 50 percent; or

(B) 60 percent when service is provided by aircraft with more than 14 passenger seats.

(5) service provided in aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation has not been provided to the place in aircraft with at least 2 engines and using 2 pilots for at least 60 consecutive operating days at any time since October 31, 1978.

(6) service provided by pressurized aircraft when the service is provided by aircraft that regularly fly above 8,000 feet in altitude.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1144.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41732(a)	49 App.:1389(k)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(k)(1); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.
41732(b)	49 App.:1389(k)(1) (last sentence).	

In subsection (a), before clause (1), the words ''provided under section 41733 of this title'' are added for clarity. In clause (2), the words ''from an eligible place'' are added for clarity.

In subsection (b), before clause (1), the words ''Basic essential air service'' are substituted for ''Such transportation'' for clarity and consistency in the revised title. In clause (1)(B), the word ''1976'' is substituted for ''calendar year 1976'' to eliminate unnecessary words. The words ''appropriate State authority of Alaska'' are substituted for ''State agency of the State of Alaska'' for clarity and consistency with the source provisions restated in section 41734(a) of the revised title. The words ''agree to a different level of service'' are substituted for ''otherwise specified under an agreement'' for clarity. In clause (2), the word ''prices'' is substituted for ''rates, fares, and charges'' and ''fares'' because of the definition of ''price'' in section 40102(a) of the revised title. In clause (3), before subclause (A), the word ''boardings'' is substituted for ''enplanements'' for clarity and consistency in the revised title. The words ''from 1976-1986'' are substituted for ''beginning after December 31, 1975, and ending on or before December 31, 1986'' to eliminate unnecessary words. In subclause (B), the words ''affected community'' are substituted for ''community concerned'' for consistency with the source provisions restated in clause (1)(B) of this section. In clause (5), the words ''for at least 60 consecutive operating days'' are substituted for ''on each of 60 consecutive operating days'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 41731, 46301 of this title.

§ 41733. Level of basic essential air service

(a) DECISIONS MADE BEFORE OCTOBER 1, 1988.—For each eligible place for which a decision was made before October 1, 1988, under section 419 of the Federal Aviation Act of 1958, establishing the level of essential air transportation, the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place by not later than December 29, 1988.

(b) DECISIONS NOT MADE BEFORE OCTOBER 1, 1988.—(1) The Secretary shall decide on the level of basic essential air service for each eligible place for which a decision was not made before October 1, 1988, establishing the level of essential air transportation, when the Secretary receives notice that service to that place will be provided by only one air carrier. The Secretary shall make the decision by the last day of the 6-month period beginning on the date the Secretary receives the notice. The Secretary may impose notice requirements necessary to carry out this subsection. Before making a decision,

the Secretary shall consider the views of any interested community and the appropriate State authority of the State in which the community is located.

(2) Until the Secretary has made a decision on a level of basic essential air service for an eligible place under this subsection, the Secretary, on petition by an appropriate representative of the place, shall prohibit an air carrier from ending, suspending, or reducing air transportation to that place that appears to deprive the place of basic essential air service.

(c) AVAILABILITY OF COMPENSATION.—(1) If the Secretary decides that basic essential air service will not be provided to an eligible place without compensation, the Secretary shall provide notice that an air carrier may apply to provide basic essential air service to the place for compensation under this section. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the demonstrated reliability of the applicant in providing scheduled air service;

(B) the contractual and marketing arrangements the applicant has made with a larger carrier to ensure service beyond the hub airport;

(C) the interline arrangements that the applicant has made with a larger carrier to allow passengers and cargo of the applicant at the hub airport to be transported by the larger carrier through one reservation, ticket, and baggage check-in;

(D) the preferences of the actual and potential users of air transportation at the eligible place, giving substantial weight to the views of the elected officials representing the users; and

(E) for an eligible place in Alaska, the experience of the applicant in providing, in Alaska, scheduled air service, or significant patterns of non-scheduled air service under an exemption granted under section 40109(a) and (c)–(h) of this title.

(2) Under guidelines prescribed under section 41737(a) of this title, the Secretary shall pay the rate of compensation for providing basic essential air service under this section and section 41734 of this title.

(d) COMPENSATION PAYMENTS.—The Secretary shall pay compensation under this section at times and in the way the Secretary decides is appropriate. The Secretary shall end payment of compensation to an air carrier for providing basic essential air service to an eligible place when the Secretary decides the compensation is no longer necessary to maintain basic essential air service to the place.

(e) REVIEW.—The Secretary shall review periodically the level of basic essential air service for each eligible place. Based on the review and consultations with an interested community and the appropriate State authority of the State in which the community is located, the Secretary may make appropriate adjustments in the level of service.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1145.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41733(a)	49 App.:1389(b) (1)(A) (less last sentence last 24 words), (C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(b)(1), (3), (4), (9); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1508, 1509, 1511.
41733(b)(1) ..	49 App.:1389(b) (1)(A) (last sentence last 24 words), (B).	
41733(b)(2) ..	49 App.:1389(b)(9).	
41733(c)	49 App.:1389(b)(3).	
41733(d)	49 App.:1389(b)(4).	
41733(e)	49 App.:1389(b) (1)(D).	

In subsection (a), the words ''the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place'' are substituted for ''Such determination shall be made'' because the determinations for those places have been made. The words ''by not later than December 29, 1988'' are substituted for ''no later than the last day of the 1-year period beginning on December 30, 1987'' for clarity. The words ''and only after consideration of the views of any interested community and the State agency of the State in which such community is located'' and 49 App.:1389(b)(1)(C) are omitted as executed.

In subsections (b)(1) and (e), the words ''appropriate State authority'' are substituted for ''State agency'' for clarity and consistency with the source provisions restated in section 41734(a) of the revised title.

In section (b)(2), the words ''that appears to deprive'' are substituted for ''which reasonably appears to deprive'' to eliminate an unnecessary word.

In subsection (c)(1), before clause (A), the words ''an air carrier may apply to provide basic essential air service to the place for compensation'' are substituted for ''applications may be submitted by any air carrier that is willing to provide such service to such point for compensation'' for clarity and to eliminate unnecessary words.

REFERENCES IN TEXT

Section 419 of the Federal Aviation Act of 1958, referred to in subsec. (a), is section 419 of Pub. L. 85–726, which was classified to section 1389 of former Title 49, Transportation, and was repealed and reenacted as this subchapter by Pub. L. 103–272, §§ 1(e), 7(b), July 5, 1994, 108 Stat. 1143, 1379.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 41732, 41734, 41735, 41736, 46301 of this title.

§ 41734. Ending, suspending, and reducing basic essential air service

(a) NOTICE REQUIRED.—An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of basic essential air service established for that place under section 41733 of this title only after giving the Secretary of Transportation, the appropriate State authority, and the affected communities at least 90 days' notice before ending, suspending, or reducing that transportation.

(b) CONTINUATION OF SERVICE FOR 30 DAYS AFTER NOTICE PERIOD.—If at the end of the notice period under subsection (a) of this section the Secretary has not found another air carrier to provide basic essential air service to the eligible place, the Secretary shall require the car-

rier providing notice to continue to provide basic essential air service to the place for an additional 30-day period or until another carrier begins to provide basic essential air service to the place, whichever occurs first.

(c) CONTINUATION OF SERVICE FOR ADDITIONAL 30-DAY PERIODS.—If at the end of the 30-day period under subsection (b) of this section the Secretary decides another air carrier will not provide basic essential air service to the place on a continuing basis, the Secretary shall require the carrier providing service to continue to provide service for additional 30-day periods until another carrier begins providing service on a continuing basis. At the end of each 30-day period, the Secretary shall decide if another carrier will provide service on a continuing basis.

(d) CONTINUATION OF COMPENSATION AFTER NOTICE PERIOD.—If an air carrier receiving compensation under section 41733 of this title for providing basic essential air service to an eligible place is required to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section, the Secretary shall continue to pay that compensation after the last day of that period. The Secretary shall pay the compensation until the Secretary finds another carrier to provide the service to the place or the 90th day after the end of that notice period, whichever is earlier. If, after the 90th day after the end of the 90-day notice period, the Secretary has not found another carrier to provide the service, the carrier required to continue to provide that service shall receive compensation sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(e) COMPENSATION TO AIR CARRIERS ORIGINALLY PROVIDING SERVICE WITHOUT COMPENSATION.—If the Secretary requires an air carrier providing basic essential air service to an eligible place without compensation under section 41733 of this title to continue providing that service after the 90-day notice period required by subsection (a) of this section, the Secretary shall provide the carrier with compensation after the end of the 90-day notice period that is sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(f) FINDING REPLACEMENT CARRIERS.—When the Secretary requires an air carrier to continue to provide basic essential air service to an eligible place, the Secretary shall continue to make every effort to find another carrier to provide at least that basic essential air service to the place on a continuing basis.

(g) TRANSFER OF AUTHORITY.—If an air carrier, providing basic essential air service under section 41733 of this title between an eligible place and an airport at which the Administrator of the Federal Aviation Administration limits the number of instrument flight rule takeoffs and landings of aircraft, provides notice under subsection (a) of this section of an intention to end, suspend, or reduce that service and another carrier is found to provide the service, the Secretary shall require the carrier providing notice to transfer any operational authority the carrier has to land or take off at that airport related to the service to the eligible place to the carrier that will provide the service, if—

(1) the carrier that will provide the service needs the authority; and

(2) the authority to be transferred is being used to provide air service to another eligible place.

(h) NONCONSIDERATION OF SLOT AVAILABILITY.—In determining what is basic essential air service and in selecting an air carrier to provide such service, the Secretary shall not consider as a factor whether slots at a high density airport are available for providing such service.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1146; Pub. L. 103–305, title II, § 206(c), Aug. 23, 1994, 108 Stat. 1587; Pub. L. 103–429, § 6(81), Oct. 31, 1994, 108 Stat. 4388.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41734(a)	49 App.:1389(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(b)(2), (5)–(8); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1509, 1510.
41734(b)	49 App.:1389(b)(5) (1st sentence).	
41734(c)	49 App.:1389(b)(5) (last sentence).	
41734(d)	49 App.:1389(b)(6)(A).	
41734(e)	49 App.:1389(b)(6)(B).	
41734(f)	49 App.:1389(b)(8).	
41734(g)	49 App.:1389(b)(7).	

In subsection (b), the words ''If at the end of the notice period under subsection (a) of this section'' are substituted for ''If an air carrier has provided notice to the Secretary under paragraph (2) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air service to such point, and if at the conclusion of the applicable period of notice'' for clarity and to eliminate unnecessary words.

In subsection (c), the words ''either with or without compensation'' are omitted as unnecessary. The words ''shall require the carrier providing service to continue to provide service for additional 30-day periods'' are substituted for ''shall extend such requirement for such additional 30-day periods . . . as may be necessary to

continue basic essential air service to such eligible point'', and the words ''the Secretary shall decide if another carrier will provide service on a continuing basis'' are substituted for ''making the same determination'', for clarity.

In subsections (d)(1) and (e)(1), the word ''fair'' is omitted as being included in ''reasonable''.

In subsection (d), before clause (1), the words ''basic essential air service'' are substituted for ''air transportation'' and ''such transportation'' for consistency with the source provisions restated in this section. The words ''to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section'' are substituted for ''to continue service to such point beyond the date on which such carrier would, but for paragraph (5), be able to suspend, terminate, or reduce such service below the level of basic essential air service to such point'' to eliminate unnecessary words.

In subsection (e), before clause (1), the words ''basic essential air service'' are substituted for ''air transportation'' for consistency with the source provisions restated in this section. The words ''after the end of the 90-day notice period that is'' are substituted for ''then'' for clarity.

In subsection (f), the words ''basic essential air service'' are substituted for ''air transportation which such air carrier has proposed to terminate, reduce, or suspend'' for consistency with the source provisions restated in this section.

In subsection (g)(2), the words ''the authority to be transferred is being used only to provide air service to the eligible place'' are substituted for ''unless . . . such authority is being used to provide air service with respect to more than 1 eligible point'' for clarity and because of the restatement.

AMENDMENTS

1994—Subsec. (g)(2). Pub. L. 103–429 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''the authority to be transferred is being used only to provide air service to the eligible place.''

Subsec. (h). Pub. L. 103–305 added subsec. (h).

EFFECTIVE DATE OF 1994 AMENDMENT

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

DEFINITIONS

For definitions of the terms ''slot'' and ''high density airport'' used in subsec. (h) of this section, see section 41714(h) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 41714, 41732, 41733, 41735, 46301 of this title.

§ 41735. Enhanced essential air service

(a) PROPOSALS.—(1) A State or local government may submit a proposal to the Secretary of Transportation for enhanced essential air service to an eligible place for which basic essential air service is being provided under section 41733 of this title. The proposal shall—

(A) specify the level and type of enhanced essential air service the State or local government considers appropriate; and

(B) include an agreement related to compensation required for the proposed service.

(2) The agreement submitted under paragraph (1)(B) of this subsection shall provide that—

(A) the State or local government or a person pay 50 percent of the compensation required for the proposed service and the United States Government pay the remaining 50 percent; or

(B)(i) the Government pay 100 percent of the compensation; and

(ii) if the proposed service is not successful for at least a 2-year period under the criteria prescribed by the Secretary under paragraph (3) of this subsection, the eligible place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(3) The Secretary shall prescribe by regulation objective criteria for deciding whether enhanced essential air service to an eligible place under this section is successful in terms of—

(A) increasing passenger usage of the airport facilities at the place; and

(B) reducing the amount of compensation provided by the Secretary under this subchapter for that service.

(b) DECISIONS.—Not later than 90 days after receiving a proposal under subsection (a) of this section, the Secretary shall—

(1) approve the proposal if the Secretary decides the proposal is reasonable; or

(2) if the Secretary decides the proposal is not reasonable, disapprove the proposal and notify the State or local government of the disapproval and the reasons for the disapproval.

(c) COMPENSATION PAYMENTS.—(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. Compensation for enhanced essential air service under this section may be paid only for the costs incurred in providing air service to an eligible place that are in addition to the costs incurred in providing basic essential air service to the place under section 41733 of this title. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of enhanced essential air service;

(B) the State or local government or person agreeing to pay compensation under this section continues to pay the compensation; and

(C) the Secretary decides the compensation is necessary to maintain the service to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(d) REVIEW.—(1) The Secretary shall review periodically the enhanced essential air service provided to each eligible place under this section.

(2) For service for which the Government pays 50 percent of the compensation, based on the review and consultation with the affected community and the State or local government or person paying the remaining 50 percent of the compensation, the Secretary shall make appropriate adjustments in the type and level of service to the place.

(3) For service for which the Government pays 100 percent of the compensation, based on the review and consultation with the State or local government submitting the proposal, the Secretary shall decide whether the service has suc-

ceeded for at least a 2-year period under the criteria prescribed under subsection (a)(3) of this section. If unsuccessful, the place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(e) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of enhanced essential air service established for that place by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation for that service at least 30 days' notice before ending, suspending, or reducing the service. This subsection does not relieve the carrier of an obligation under section 41734 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1148.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41735(a)	49 App.:1389(c)(1), (3)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(c); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1512.
41735(b)	49 App.:1389(c)(2).	
41735(c)	49 App.:1389(c)(5)–(7).	
41735(d)	49 App.:1389(c)(3)(A), (B).	
41735(e)	49 App.:1389(c)(4).	

In subsections (a)(2)(B)(ii) and (d)(3), the words ''air service or air transportation for which compensation is paid'' are substituted for ''air service for which compensation is payable'' for consistency with the source provisions restated in sections 41733 and 41736 of the revised title.

In subsection (a)(3), the word ''prescribe'' is substituted for ''establish'' for consistency in the revised title.

In subsection (b), before clause (1), the words ''issue a decision'' are omitted as unnecessary because of the restatement.

In subsection (c)(1)(B), the words ''State or local government or person agreeing to pay compensation under this section'' are substituted for ''government or person agreeing to pay any non-Federal share'' for clarity.

In subsection (c)(2), the words ''State or local government or person agreeing to pay compensation under this section'' are substituted for ''non-Federal payments for enhanced essential air service under this subsection'' for clarity.

In subsection (d)(2), the words ''For service for which the Government pays 50 percent of the compensation'' are substituted for ''If the enhanced essential air service approved under this subsection is to be at a 50 percent Federal share'' because of the restatement. The words ''the remaining 50 percent'' are substituted for ''the non-Federal'' for clarity and consistency in this section.

In subsection (d)(3), the words ''For service for which the Government pays 100 percent of the compensation'' are substituted for ''If the enhanced essential air service approved under this subsection is to be at a 100 percent Federal share'' because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41736. Air transportation to noneligible places

(a) PROPOSALS AND DECISIONS.—(1) A State or local government may propose to the Secretary of Transportation that the Secretary provide compensation to an air carrier to provide air transportation to a place that is not an eligible place under this subchapter. Not later than 90 days after receiving a proposal under this section, the Secretary shall—

(A) decide whether to designate the place as eligible to receive compensation under this section; and

(B)(i) approve the proposal if the State or local government or a person is willing and able to pay 50 percent of the compensation for providing the transportation, and notify the State or local government of the approval; or

(ii) disapprove the proposal if the Secretary decides the proposal is not reasonable under paragraph (2) of this subsection, and notify the State or local government of the disapproval and the reasons for the disapproval.

(2) In deciding whether a proposal is reasonable, the Secretary shall consider, among other factors—

(A) the traffic-generating potential of the place;

(B) the cost to the United States Government of providing the proposed transportation; and

(C) the distance of the place from the closest hub airport.

(b) APPROVAL FOR CERTAIN AIR TRANSPORTATION.—Notwithstanding subsection (a)(1)(B) of this section, the Secretary shall approve a proposal under this section to compensate an air carrier for providing air transportation to a place in the 48 contiguous States or the District of Columbia and designate the place as eligible for compensation under this section if—

(1) at any time before October 23, 1978, the place was served by a carrier holding a certificate under section 401 of the Federal Aviation Act of 1958;

(2) the place is more than 50 miles from the nearest small hub airport or an eligible place;

(3) the place is more than 150 miles from the nearest hub airport; and

(4) the State or local government submitting the proposal or a person is willing and able to pay 25 percent of the cost of providing the compensated transportation.

(c) LEVEL OF AIR TRANSPORTATION.—(1) If the Secretary designates a place under subsection (a)(1) of this section as eligible for compensation under this section, the Secretary shall decide, not later than 6 months after the date of the designation, on the level of air transportation to be provided under this section. Before making a decision, the Secretary shall consider the views of any interested community, the appropriate State authority of the State in which the place is located, and the State or local government or person agreeing to pay compensation for the transportation under subsection (b)(4) of this section.

(2) After making the decision under paragraph (1) of this subsection, the Secretary shall provide notice that any air carrier that is willing to

provide the level of air transportation established under paragraph (1) for a place may submit an application to provide the transportation. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the factors listed in section 41733(c)(1) of this title; and

(B) the views of the State or local government or person agreeing to pay compensation for the transportation.

(d) COMPENSATION PAYMENTS.—(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of air transportation established by the Secretary under subsection (c)(1) of this section;

(B) the State or local government or person agreeing to pay compensation for transportation under this section continues to pay that compensation; and

(C) the Secretary decides the compensation is necessary to maintain the transportation to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(e) REVIEW.—The Secretary shall review periodically the level of air transportation provided under this section. Based on the review and consultation with any interested community, the appropriate State authority of the State in which the community is located, and the State or local government or person paying compensation under this section, the Secretary may make appropriate adjustments in the level of transportation.

(f) WITHDRAWAL OF ELIGIBILITY DESIGNATIONS.—After providing notice and an opportunity for interested persons to comment, the Secretary may withdraw the designation of a place under subsection (a)(1) of this section as eligible to receive compensation under this section if the place has received air transportation under this section for at least 2 years and the Secretary decides the withdrawal would be in the public interest. The Secretary by regulation shall prescribe standards for deciding whether the withdrawal of a designation under this subsection is in the public interest. The standards shall include the factors listed in subsection (a)(2) of this section.

(g) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier providing air transportation for compensation under this section may end, suspend, or reduce that transportation below the level of transportation established by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation under this section at least 30 days' notice before ending, suspending, or reducing the transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1149.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41736(a)	49 App.:1389(d)(1), (2)(A), (C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(d); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1513.
41736(b)	49 App.:1389(d)(2)(B).	
41736(c)(1) ..	49 App.:1389(d)(3)(A).	
41736(c)(2) ..	49 App.:1389(d)(4).	
41736(d)	49 App.:1389(d)(5), (7), (8).	
41736(e)	49 App.:1389(d)(3)(B).	
41736(f)	49 App.:1389(d)(2)(D).	
41736(g)	49 App.:1389(d)(6).	

In subsection (a)(1), before clause (A), the words ''that the Secretary provide compensation to an air carrier to provide air transportation'' are substituted for ''for compensated air transportation in accordance with this subsection'' for clarity. In clause (B)(i), the word ''transportation'' is substituted for ''proposed compensated air transportation'' to eliminate unnecessary words.

In subsections (c)–(g), the word ''transportation'' is substituted for ''service'' for consistency with the source provisions restated in subsections (a) and (b) of this section.

In subsections (c)(1) and (e), the words ''appropriate State authority'' are substituted for ''State agency'' for clarity and consistency with the source provisions restated in section 41734(a) of the revised title.

In subsection (d), the text of 49 App.:1389(d)(5) is omitted as unnecessary because of the restatement.

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

REFERENCES IN TEXT

Section 401 of the Federal Aviation Act of 1958, referred to in subsec. (b)(1), is section 401 of Pub. L. 85–726, which was classified to section 1371 of former Title 49, Transportation, and was repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For disposition of section 1371 of former Title 49, see Table at the beginning of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 41738, 46301 of this title.

§ 41737. Compensation guidelines, limitations, and claims

(a) COMPENSATION GUIDELINES.—(1) The Secretary of Transportation shall prescribe guidelines governing the rate of compensation payable under this subchapter. The guidelines shall be used to determine the reasonable amount of compensation required to ensure the continuation of air service or air transportation under this subchapter. The guidelines shall—

(A) provide for a reduction in compensation when an air carrier does not provide service or transportation agreed to be provided;

(B) consider amounts needed by an air carrier to promote public use of the service or transportation for which compensation is being paid; and

(C) include expense elements based on representative costs of air carriers providing scheduled air transportation of passengers, property, and mail on aircraft of the type the Secretary decides is appropriate for providing the service or transportation for which compensation is being provided.

(2) Promotional amounts described in paragraph (1)(B) of this subsection shall be a special, segregated element of the compensation provided to a carrier under this subchapter.

(b) REQUIRED FINDING.—The Secretary may pay compensation to an air carrier for providing air service or air transportation under this subchapter only if the Secretary finds the carrier is able to provide the service or transportation in a reliable way.

(c) CLAIMS.—Not later than 15 days after receiving a written claim from an air carrier for compensation under this subchapter, the Secretary shall—

(1) pay or deny the United States Government's share of a claim; and

(2) if denying the claim, notify the carrier of the denial and the reasons for the denial.

(d) AUTHORITY TO MAKE AGREEMENTS AND INCUR OBLIGATIONS.—(1) The Secretary may make agreements and incur obligations from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to pay compensation under this subchapter. An agreement by the Secretary under this subsection is a contractual obligation of the Government to pay the Government's share of the compensation.

(2) Not more than $38,600,000 is available to the Secretary out of the Fund for each of the fiscal years ending September 30, 1993–1998, to incur obligations under this section. Amounts made available under this section remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1151.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41737(a)	49 App.:1389(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(e)(2)–(g); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.
41737(b)	49 App.:1389(e)(2).	
41737(c)	49 App.:1389(g).	
41737(d)	49 App.:1389(*l*).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(*l*); added Nov. 5, 1990, Pub. L. 101–508, § 9113(b)(1), 104 Stat. 1388–363.

In subsection (a)(1), before clause (A), the word ''prescribe'' is substituted for ''establish'' to eliminate an executed word. The words ''air service or air transportation under this subchapter'' are substituted for ''air service under this section'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clause (C), the words ''the service or transportation for which compensation is being provided'' are substituted for ''such service'' for clarity.

In subsection (a)(2), the words ''compensation provided to a carrier under this subchapter'' are substituted for ''required compensation'' for clarity.

In subsection (b), the words ''air service or air transportation'' are substituted for ''air service'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

In subsection (d)(2), the reference to fiscal year 1992 is omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 41733, 46301 of this title.

§ 41738. Fitness of air carriers

Notwithstanding section 40109(a) and (c)–(h) of this title, an air carrier may provide air service to an eligible place or air transportation to a place designated under section 41736 of this title only when the Secretary of Transportation decides that—

(1) the carrier is fit, willing, and able to perform the service or transportation; and

(2) aircraft used to provide the service or transportation, and operations related to the service or transportation, conform to the safety standards prescribed by the Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41738	49 App.:1389(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(e)(1); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.

In this section, before clause (1), the words ''air transportation to a place'' are substituted for ''service to a point'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clauses (1) and (2), the words ''service or transportation'' are substituted for ''such service'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41739. Air carrier obligations

If at least 2 air carriers make an agreement to operate under or use a single carrier designator code to provide air transportation, the carrier whose code is being used shares responsibility with the other carriers for the quality of transportation provided the public under the code by the other carriers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41739	49 App.:1389(i).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(i); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words ''quality of transportation'' are substituted for ''quality of service'' for clarity and consistency in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41740. Joint proposals

The Secretary of Transportation shall encourage the submission of joint proposals by 2 or more air carriers for providing air service or air transportation under this subchapter through arrangements that maximize the service or transportation to and from major destinations beyond the hub.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41740	49 App.:1389(j).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(j); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words ''air service or air transportation'' are substituted for ''air service'', and the words ''the service or transportation'' are substituted for ''service'', for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41741. Insurance

The Secretary of Transportation may pay an air carrier compensation under this subchapter only when the carrier files with the Secretary an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay for bodily injury to, or death of, an individual, or for loss of or damage to property of others, resulting from the operation of aircraft, but not more than the amount of the policy or plan limits.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41741	49 App.:1389(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(h); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words ''The Secretary of Transportation may pay . . . only when'' are substituted for ''An air carrier shall not receive . . . unless'' for clarity. The words ''approved by the Secretary'' are substituted for ''complies with regulations or orders issued by the Secretary governing the filing and approval'' to eliminate unnecessary words. The words ''The policy or plan must be sufficient to pay . . . but not more than the amount of the policy or plan limits'' are substituted for ''in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts'' because of the restatement. The words ''for which such air carrier may become liable'' are omitted as unnecessary. The word ''individual'' is substituted for ''person'' because it is more precise. The word ''operation'' is substituted for ''operation or maintenance'' because it is inclusive.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41742. Ending effective date

This subchapter is not effective after September 30, 1998.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41742	49 App.:1389(m).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(m); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517; Nov. 5, 1990, Pub. L. 101–508, § 9113(b)(1), 104 Stat. 1388–363.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

CHAPTER 419—TRANSPORTATION OF MAIL

Sec.
41901. General authority.
41902. Schedules for certain transportation of mail.
41903. Duty to provide certain transportation of mail.
41904. Noncitizens transporting mail to or in foreign countries.
41905. Regulating air carrier transportation of foreign mail.
41906. Emergency mail transportation.
41907. Prices for foreign transportation of mail.
41908. Prices for transporting mail of foreign countries.
41909. Duty to oppose unreasonable prices under the Universal Postal Union Convention.

Sec.
41910. Weighing mail.
41911. Evidence of providing mail service.
41912. Effect on foreign postal arrangements.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 40109, 41110, 46301 of this title.

§ 41901. General authority

(a) TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in interstate air transportation under section 5402(d) and (f) of title 39.

(b) AUTHORITY TO PRESCRIBE PRICES.—Except as provided in section 5402 of title 39, on the initiative of the Secretary of Transportation or on petition by the Postal Service or an air carrier, the Secretary shall prescribe and publish—

(1) after notice and an opportunity for a hearing on the record, reasonable prices to be paid by the Postal Service for the transportation of mail by aircraft in foreign air transportation or between places in Alaska, the facilities used in and useful for the transportation of mail, and the services related to the transportation of mail for each carrier holding a certificate that authorizes that transportation;

(2) the methods used, whether by aircraft-mile, pound-mile, weight, space, or a combination of those or other methods, to determine the prices for each air carrier or class of air carriers; and

(3) the effective date of the prices.

(c) OTHER TRANSPORTATION.—In prescribing prices under subsection (b) of this section, the Secretary may include transportation other than by aircraft that is incidental to transportation of mail by aircraft or necessary because of emergency conditions related to aircraft operations.

(d) AUTHORITY TO PRESCRIBE DIFFERENT PRICES.—Considering conditions peculiar to transportation by aircraft and to particular air carriers or classes of air carriers, the Secretary may prescribe different prices under this section for different air carriers or classes of air carriers and for different classes of service. In prescribing a price for a carrier under this section, the Secretary shall consider, among other factors, the following:

(1) the condition that the carrier may hold and operate under a certificate authorizing the transportation of mail only by providing necessary and adequate facilities and service for the transportation of mail.

(2) standards related to the character and quality of service to be provided that are prescribed by or under law.

(e) STATEMENTS ON PRICES.—A petition for prescribing a reasonable price under this section must include a statement of the price the petitioner believes is reasonable.

(f) STATEMENTS ON REQUIRED SERVICES.—The Postal Service shall introduce as part of the record in every proceeding under this section a comprehensive statement of the services to be required of the air carrier and other information the Postal Service has that the Secretary considers material to the proceeding.

(g) EXPIRATION DATE.—The authority of the Secretary under this part and section 5402 of title 39 providing for the transportation of mail by aircraft between places in Alaska expires on the date specified in section 5402(f) of title 39.

(Pub. L. 103–272, §§ 1(e), 4(k)(1), (2), July 5, 1994, 108 Stat. 1153, 1370.)

AMENDMENT OF SUBSECTIONS (b)(1) AND (g)

Pub. L. 103–272, § 4(k)(1), (2), July 5, 1994, 108 Stat. 1370, provided that, effective Jan. 1, 1999, this section is amended by substituting ''transportation'' for ''transportation or between places in Alaska'' in subsection (b)(1) and by striking out subsection (g).

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, § 1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41901(a)	49 App.:1376(a) (1st sentence related to non-Alaska interstate and overseas air transportation less words between parentheses).	Aug. 23, 1958, Pub. L. 85–726, § 406(a), 72 Stat. 763; Nov. 9, 1977, Pub. L. 95–163, § 13, 91 Stat. 1282.
	49 App.:1551(b)(1)(D).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(D); added Oct. 4, 1984, Pub. L. 95–504, § 40(a), 92 Stat. 1745; Oct. 4, 1984, Pub. L. 98–443, § 3(d), 98 Stat. 1704.
41901(b)	49 App.:1376(a) (1st sentence related to foreign and Alaska air transportation less words between parentheses, 2d, last sentences).	
	49 App.:1376(c).	Aug. 23, 1958, Pub. L. 85–726, § 406(c), 72 Stat. 764; Oct. 24, 1978, Pub. L. 95–504, § 24(b), 92 Stat. 1725.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41901(c)	49 App.:1376(a) (1st sentence words between parentheses).	
41901(d)	49 App.:1376(b).	Aug. 23, 1958, Pub. L. 85–726, § 406(b), 72 Stat. 763; July 10, 1962, Pub. L. 87–528, § 5, 76 Stat. 145; Oct. 15, 1966, Pub. L. 89–670, § 8(a), 80 Stat. 942; Nov. 9, 1977, Pub. L. 95–163, § 12(a), 91 Stat. 1282; Oct. 24, 1978, Pub. L. 95–504, §§ 24(a), 25(a), 92 Stat. 1725.
	49 App.:1376(d).	Aug. 23, 1958, Pub. L. 85–726, § 406(d), (e), 72 Stat. 764.
	49 App.:1551(b)(1)(D), (E).	
41901(e)	49 App.:1376(e) (1st sentence).	
41901(f)	49 App.:1376(e) (last sentence).	
	49 App.:1551(b)(1)(D), (E).	
41901(g)	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1553(c).	Oct. 4, 1984, Pub. L. 98–443, § 4(c), 98 Stat. 1705; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 4(c) of Civil Aeronautics Board Sunset Act of 1984), 102 Stat. 2155.

In this section, the word ''prescribe'' is substituted for ''fix and determine'' and ''fixing and determining''

for consistency in the revised title and with other titles of the United States Code. The word ''reasonable'' is substituted for ''fair and reasonable'' for consistency in the revised title and to eliminate an unnecessary word. See the revision notes following 49:10101.

Subsection (a) is substituted for 49 App.:1551(b)(1)(D) to make clear that the United States Postal Service derives its authority to provide for the transportation of mail by aircraft in interstate transportation from 39:5402(d) and (f). The text of 49 App.:1376(a) (1st sentence related to non-Alaska interstate and overseas air transportation less words between parentheses) is omitted as superseded by 39:5402(d).

In subsection (b), before clause (1), the words ''Except as provided in section 5402 of title 39'' are added for clarity. The words ''from time to time'' in 49 App.:1376(a) are omitted as surplus. The text of 49 App.:1376(a) (2d, last sentences) is omitted as executed. In clauses (1) and (2), the word ''prices'' is substituted for ''rates of compensation'' for consistency in this part. In clause (1), the words ''an opportunity for a hearing on the record'' are substituted for ''hearing'' for clarity and consistency with subsection (f) of this section. The words ''to be paid by the Postal Service'' are substituted for ''The United States Postal Service shall make payments . . . of so much of the total compensation as is fixed and determined by the Board under this section without regard to clause (3) of subsection (b) of this section'' in 49 App.:1376(c) to eliminate unnecessary words because the text of 49 App.:1376(b) (2d sentence words after 2d semicolon) is being omitted. See the revision notes for subsection (d) of this section. The words ''out of appropriations for the transportation of mail by aircraft'' are omitted as being superseded by chapters 20 and 24 of title 39, United States Code. The text of 49 App.:1376(c) (2d sentence) is omitted as expired because of 49 App.:1376(c) (last sentence). The text of 49 App.:1376(c) (last sentence) is omitted as executed. The words ''and to make such rates effective from such date as it shall determine to be proper'' in 49 App.:1376(a) are omitted because the power to determine when rates go into effect is included in the power to prescribe rates. The words ''transportation of mail by aircraft in foreign air transportation or between places in Alaska'' are substituted for ''transportation of mail by aircraft'' because 49 App.:1551(b)(1)(D) and (E) provides that transportation of mail in interstate or overseas air transportation (except transportation of mail between 2 places in Alaska) is transferred to the jurisdiction of the United States Postal Service leaving the balance of authority under 49 App.:1376(a) with the Secretary of Transportation.

In subsections (c), (d), and (f), reference to service provided by the Postal Service is omitted as obsolete because of 39:5402(d).

In subsection (c), the words ''In prescribing prices under subsection (b) of this section, the Secretary'' are added for clarity.

In subsection (d), the text of 49 App.:1376(b) (2d sentence words after 2d semicolon, 5th–7th sentences) and (d) is omitted as obsolete because under 49 App.:1376(c) and 1376a, payments by the Board under 49 App.:1376 were terminated. The text of 49 App.:1376(b) (3d, 4th sentences) is omitted as obsolete because it applies only to rates paid for service performed between October 24, 1978, and January 1, 1983. The text of 49 App.:1376(b) (last sentence) is omitted as executed.

Subsection (g) is substituted for 49 App.:1551(b)(3) and 1553(c) because the date on which the authority of the Secretary of Transportation to provide for the transportation of mail by aircraft expires is set out in 39:5402(f). The source provisions of 49 App.:1551(b)(3) providing for the transfer of that authority from the Secretary to the Postal Service are restated in section 5(k) of this bill.

PUB. L. 103–272, § 4(k)(1), (2)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41901(b)(1), (g).	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, § 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4(k) of Pub. L. 103–272 provided that the amendment made by that section is effective Jan. 1, 1999.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3401.

§ 41902. Schedules for certain transportation of mail

(a) REQUIREMENT.—Except as provided in section 41906 of this title and section 5402 of title 39, an air carrier may transport mail by aircraft in foreign air transportation or between places in Alaska only under a schedule designated or required to be established under subsection (c) of this section for the transportation of mail.

(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

(1) the places between which the carrier is authorized to provide foreign air transportation;

(2) the places between which the carrier is authorized to transport mail in Alaska;

(3) every schedule of aircraft regularly operated by the carrier between places described in clauses (1) and (2) of this subsection and every change in each schedule; and

(4) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each place.

(c) DESIGNATING AND ADDITIONAL SCHEDULES.—The Postal Service may—

(1) designate any schedule of an air carrier filed under subsection (b)(3) of this section for the transportation of mail between the places

between which the carrier is authorized by its certificate to transport mail; and

(2) require the carrier to establish additional schedules for the transportation of mail between those places.

(d) CHANGING SCHEDULES.—A schedule designated or required to be established for the transportation of mail under subsection (c) of this section may be changed only after 10 days' notice of the change is filed as provided in subsection (b)(3) of this section. The Postal Service may disapprove a proposed change in a schedule or amend or modify the schedule or proposed change.

(e) ORDERS.—An order of the Postal Service under this section may become effective only after 10 days after the order is issued. A person adversely affected by the order may appeal the order to the Secretary before the end of the 10-day period under regulations the Secretary prescribes. If the public convenience and necessity require, the Secretary may amend, modify, suspend, or cancel the order. Pending a decision about the order, the Secretary may postpone the effective date of the order.

(f) PROCEEDINGS PREFERENCES.—The Secretary shall give preference to a proceeding under this section over all other proceedings before the Secretary under this subpart.

(Pub. L. 103–272, §§1(e), 4(k)(1), (3), July 5, 1994, 108 Stat. 1153, 1370; Pub. L. 103–429, §7(a)(3)(D), Oct. 31, 1994, 108 Stat. 4389.)

AMENDMENT OF SUBSECTIONS (a) AND (b)

Pub. L. 103–272, §4(k)(1), July 5, 1994, 108 Stat. 1370, provided that, effective Jan. 1, 1999, subsection (a) of this section is amended by substituting ''transportation'' for ''transportation or between places in Alaska''.

Pub. L. 103–272, §4(k)(3), July 5, 1994, 108 Stat. 1370, as amended by Pub. L. 103–429, §7(a)(3)(D), Oct. 31, 1994, 108 Stat. 4389, provided that, effective Jan. 1, 1999, subsection (b) of this section is amended by striking par. (2), redesignating pars. (3) and (4) as (2) and (3), respectively, and in par. (2), as redesignated, substituting ''clause (1)'' for ''clauses (1) and (2)''.

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, §1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41902(a)	49 App.:1375(b) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, §405(b), 72 Stat. 760.
	49 App.:1551(a) (4)(A) (related to 49 App.:1375(b)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(A) (related to §405(b)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41902(b)	49 App.:1375(b) (1st sentence).	
	49 App.:1551(a) (4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	
41902(c)	49 App.:1375(b) (2d sentence).	
41902(d)	49 App.:1375(b) (3d, 4th sentences).	
41902(e)	49 App.:1375(b) (5th–7th sentences).	
	49 App.:1551(a) (4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	
41902(f)	49 App.:1375(b) (8th sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272, §1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(a) (4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	

In this chapter, the word ''places'' is substituted for ''points'' for consistency in the revised title. The words ''United States Postal Service'' and ''Postal Service'' are substituted for ''Postmaster General'' in sections 401, 405, and 406 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 754, 760) because of sections 4(a) and 6(o) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773, 783).

In subsection (a), the words ''Except as provided in section 41906 of this title and section 5402 of title 39'' are added because section 41906 of the revised title and 39:5402 contain exceptions to the provisions restated in this subsection. The words ''transport mail by aircraft in foreign air transportation or between places in Alaska'' are substituted for ''transport mail'' because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(b) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska).

In subsection (b), before clause (1), the words ''from time to time'' are omitted as surplus. Clauses (1) and (2) are substituted for ''to engage in air transportation'' because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(b) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). In clause (4), the words ''between places described in clauses (1) and (2) of this subsection and every change in each schedule'' are substituted for ''between such points'' for clarity.

In subsection (c)(1), the words ''any schedule of an air carrier filed under subsection (b)(3) of this section'' are substituted for ''any such schedule'' for clarity.

In subsection (c)(2), the words ''by order'' are omitted as surplus.

In subsection (d), the word ''alter'' is omitted as being included in ''amend, or modify''.

In subsection (e), the words ''adversely affected'' are substituted for ''aggrieved'' for consistency in the revised title. The words ''appeal the order'' are substituted for ''apply . . . for a review of such order'' for consistency in the revised title and with other titles of the United States Code. The words ''The Board may review, and'' are omitted as surplus. The words ''amend, modify'' are substituted for ''amend, revise'' for consistency in the revised title.

Subsection (f) is substituted for 49 App.:1375(b) (8th sentence) to reflect the transfer of functions of the Civil Aeronautics Board to the Secretary of Transportation.

PUB. L. 103–272, §4(k)(1), (3)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41902(a), (b)	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation

Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

EFFECTIVE DATE OF 1994 AMENDMENTS

Section 7(a) of Pub. L. 103–429 provided in part that the amendment made by that section is effective July 5, 1994.

Section 4(k) of Pub. L. 103–272 provided that the amendments made by that section are effective Jan. 1, 1999.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41903 of this title.

§ 41903. Duty to provide certain transportation of mail

(a) AIR CARRIERS.—Subject to subsection (b) of this section, an air carrier authorized by its certificate to transport mail by aircraft in foreign air transportation or between places in Alaska shall—

(1) provide facilities and services necessary and adequate to provide that transportation; and

(2) transport mail between the places authorized in the certificate for transportation of mail when required, and under regulations prescribed, by the United States Postal Service.

(b) MAXIMUM MAIL LOAD.—The Secretary of Transportation may prescribe the maximum mail load for a schedule or for an aircraft or type of aircraft for the transportation of mail by aircraft in foreign air transportation or between places in Alaska. If the Postal Service tenders to an air carrier mail exceeding the maximum load for transportation by the carrier under a schedule designated or required to be established for the transportation of mail under section 41902(c) of this title, the carrier, as nearly in accordance with the schedule as the Secretary decides is possible, shall—

(1) provide facilities sufficient to transport the mail to the extent the Secretary decides the carrier reasonably is able to do so; and

(2) transport that mail.

(Pub. L. 103–272, §§1(e), 4(k)(1), July 5, 1994, 108 Stat. 1154, 1370.)

AMENDMENT OF SECTION

Pub. L. 103–272, § 4(k)(1), July 5, 1994, 108 Stat. 1370, provided that, effective Jan. 1, 1999, this section is amended by substituting ''transportation'' for ''transportation or between places in Alaska'' wherever appearing.

HISTORICAL AND REVISION NOTES

PUB. L. 103–272, § 1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41903(a)	49 App.:1371(*l*).	Aug. 23, 1958, Pub. L. 85–726, §§401(*l*), 405(c), (d), 72 Stat. 757, 761.
	49 App.:1375(d).	
	49 App.:1551(a)(4)(A) (related to 49 App.:1371(*l*), 1375(d)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(A) (related to §§401(*l*), 405(c), (d)); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1703.
41903(b)	49 App.:1375(c).	
	49 App.:1551(a)(4)(A) (related to 49 App.:1375(c)).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the words ''Subject to subsection (b) of this section'' are added for clarity because subsection (b) limits the effect of this section. The words ''transport mail by aircraft in foreign air transportation or between places in Alaska'' are substituted for ''the transportation of mail'' in 49 App.:1371(*l*) and ''the transportation of mail by aircraft'' in 49 App.:1375(d) because 49 App.:1551(a)(4)(A) provides that 49 App.:1371(*l*) and 1375(d) no longer apply to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). Clause (2) is substituted for ''shall transport mail whenever required by the United States Postal Service'' in 49 App.:1371(*l*) and the text of 49 App.:1375(d) for clarity and to eliminate unnecessary words. The text of 49 App.:1371(*l*) (last sentence) is omitted as surplus because section 41901 of the revised title specifies how the rates of compensation are determined.

In subsection (b), before clause (1), the words ''transportation of mail by aircraft in foreign air transportation or between places in Alaska'' are added because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(c) no longer applies to interstate or overseas air transportation of mail (except transportation of mail between 2 places in Alaska).

PUB. L. 103–272, § 4(k)(1)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41903	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between

places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4(k) of Pub. L. 103–272 provided that the amendment made by that section is effective Jan. 1, 1999.

§ 41904. Noncitizens transporting mail to or in foreign countries

When the United States Postal Service decides that it may be necessary to have a person not a citizen of the United States transport mail by aircraft to or in a foreign country, the Postal Service may make an arrangement with the person, without advertising, to provide the transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41904	49 App.:1375(e)(2).	Aug. 23, 1958, Pub. L. 85–726, § 405(e)(2), 72 Stat. 761.

The words ''who may not be obligated to transport the mail for a foreign country'' are omitted for simplicity and clarity because the omitted words impose no requirement or qualification that is meaningful.

§ 41905. Regulating air carrier transportation of foreign mail

An air carrier holding a certificate that authorizes foreign air transportation and transporting mail of a foreign country shall transport that mail under the control of, and subject to regulation by, the United States Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41905	49 App.:1375(f)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 405(f)(1) (1st sentence), 72 Stat. 761.

§ 41906. Emergency mail transportation

(a) CONTRACT AUTHORITY.—In an emergency caused by a flood, fire, or other disaster, the United States Postal Service may make a contract without advertising to transport mail by aircraft to or from a locality affected by the emergency when the available facilities of persons authorized to transport mail to or from the locality are inadequate to meet the requirements of the Postal Service during the emergency. The contract may be only for periods necessary to maintain mail service because of the inadequacy of the facilities. Payment for transportation provided under the contract shall be made at prices provided in the contract.

(b) TRANSPORTATION NOT AIR TRANSPORTATION.—Transportation provided under a contract made under subsection (a) of this section is not air transportation within the meaning of this part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41906(a)	49 App.:1375(h) (1st, 2d, last sentences).	Aug. 23, 1958, Pub. L. 85–726, § 405(h), 72 Stat. 762.
41906(b)	49 App.:1375(h) (3d sentence).	

In subsection (a), the word ''disaster'' is substituted for ''calamitous visitation'' for consistency in the revised title and with other titles of the United States Code. The words ''any or all classes of'' and ''of compensation'' are omitted as surplus. The words ''from appropriations for the transportation of mail by the means normally used for transporting the mail transported under such contracts'' are omitted as superseded by 39:chs. 20 and 24. The authority of the Postal Service under this section is in addition to the authority of the Postal Service under 39:5001.

In subsection (b), the words ''Transportation provided'' are substituted for ''operation'' for consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41902 of this title.

§ 41907. Prices for foreign transportation of mail

(a) LIMITATIONS.—When air transportation is provided between the United States and a foreign country both by aircraft owned or operated by an air carrier holding a certificate under chapter 411 of this title and by aircraft owned or operated by a foreign air carrier, the United States Postal Service may not pay to or for the account of the foreign air carrier a price for transporting mail by aircraft between the United States and the foreign country that the Postal Service believes will result (over a reasonable period determined by the Postal Service considering exchange fluctuations and other factors) in the foreign air carrier receiving a price for transporting the mail that is higher than the price—

(1) the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and the United States; or

(2) determined by the Postal Service to be comparable to the price the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and an intermediate country on the route of the air carrier between the foreign country and the United States.

(b) CHANGES.—The Secretary of Transportation shall act expeditiously on proposed changes in prices for transporting mail by aircraft in foreign air transportation. When prescribing those prices, the Secretary shall consider—

(1) the prices paid for transportation of mail under the Universal Postal Union Convention as ratified by the United States Government;

(2) the price-making elements used by the Universal Postal Union in prescribing its airmail prices; and

(3) the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union

prices for transporting United States mail and national origin mail of their own countries.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41907(a)	49 App.:1376(h)(1).	Aug. 23, 1958, Pub. L. 85–726, § 406(h)(1), 72 Stat. 765; Jan. 3, 1975, Pub. L. 93–623, § 4, 88 Stat. 2103.
41907(b)	49 App.:1376(h)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 406(h)(3); added Jan. 3, 1975, Pub. L. 93–623, § 4, 88 Stat. 2104.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the word ''price'' is substituted for ''rate of compensation'' for consistency in this part. In clauses (1) and (2), the words ''government of a foreign country or foreign postal administration'' are substituted for ''foreign country'' for clarity and consistency in the revised title.

§ 41908. Prices for transporting mail of foreign countries

(a) PRICE DETERMINATIONS.—The United States Postal Service shall determine the prices that an air carrier holding a certificate that authorizes foreign air transportation must charge a government of a foreign country or foreign postal administration for transporting mail of the foreign country. The Postal Service shall put those prices into effect under the postal convention regulating postal relations between the United States and the foreign country or as provided under this section.

(b) CHANGES.—The Postal Service may authorize an air carrier holding a certificate that authorizes foreign air transportation, under limitations the Postal Service prescribes, to change the prices the carrier charges a government of a foreign country or foreign postal administration for transporting mail of the foreign country in the foreign country or between the foreign country and another foreign country.

(c) COLLECTING COMPENSATION.—(1) When an air carrier holding a certificate that authorizes foreign air transportation transports mail of a foreign country—

(A) under an arrangement with a government of a foreign country or foreign postal administration made or approved under this section, the carrier must collect its compensation for the transportation from the foreign country under the arrangement; and

(B) without having an arrangement with a government of a foreign country or foreign postal administration consistent with this section, the compensation collected by the United States Government for the transportation shall be for the account of the air carrier.

(2) An air carrier holding a certificate that authorizes foreign air transportation is not entitled to receive compensation from both a government of a foreign country or foreign postal administration and the United States Government for transporting the same mail of the foreign country.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1156.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41908(a)	49 App.:1375(f)(1) (2d, 3d sentences).	Aug. 23, 1958, Pub. L. 85–726, § 405(f)(1) (2d– last sentences), (2), 72 Stat. 761.
41908(b)	49 App.:1375(f)(1) (last sentence).	
41908(c)	49 App.:1375(f)(2).	

In this section, the words ''government of a foreign country or foreign postal administration'' is substituted for ''foreign country'' for clarity and consistency in the revised title.

In subsection (a), the text of 49 App.:1375(f)(1) (3d sentence) is omitted as obsolete and superseded by 39:5402. The word ''prices'' is substituted for ''rates of compensation'' for consistency in this part. The words ''from time to time'' are omitted as surplus.

In subsection (c)(1), the words ''When . . . transports mail of a foreign country . . . (A) under an arrangement with a government of a foreign country or foreign postal administration made or approved under this section . . . (B) without having an arrangement with a government of a foreign country or foreign postal administration consistent with this section'' are substituted for ''In any case where . . . has an arrangement with any foreign country for transporting its mails, made or approved in accordance with the provisions of paragraph (1) of this subsection . . . and in case of the absence of any arrangement between the air carrier and the foreign country consistent with this subsection'' for clarity and to eliminate unnecessary words. The words ''for the transportation'' are added for clarity.

§ 41909. Duty to oppose unreasonable prices under the Universal Postal Union Convention

The Secretary of State and the United States Postal Service shall—

(1) take appropriate action to ensure that the prices paid for transporting mail under the Universal Postal Union Convention are not higher than reasonable prices for transporting mail; and

(2) oppose any existing or proposed Universal Postal Union price that is higher than a reasonable price for transporting mail.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1156.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41909	49 App.:1376(h)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 406(h)(2); added Jan. 3, 1975, Pub. L. 93–623, § 4, 88 Stat. 2103.

The words ''necessary and'' are omitted as being included in the word ''appropriate''. The words ''each'' and ''all'' are omitted as surplus. The words ''transporting mail'' are substituted for ''such services'' for consistency in this section. The word ''reasonable'' is substituted for ''fair and reasonable'' for consistency in the revised title and to eliminate an unnecessary word. See revision notes following 49:10101.

§ 41910. Weighing mail

The United States Postal Service may weigh mail transported by aircraft and make statistical and administrative computations nec-

essary in the interest of mail service. When the Secretary of Transportation decides that additional or more frequent weighings of mail are advisable or necessary to carry out this part, the Postal Service shall provide the weighings, but it is not required to provide them for continuous periods of more than 30 days.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1157.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41910	49 App.:1376(f).	Aug. 23, 1958, Pub. L. 85–726, § 406(f), 72 Stat. 764.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

The text of 49 App.:1376(f) (2d sentence) is omitted as surplus because of 39:chs. 4 and 10. The words ''upon request of the Board'' are omitted as surplus because the Secretary of Transportation makes the determination. The words ''therefor in like manner'' are omitted as surplus.

§ 41911. Evidence of providing mail service

When and in the form required by the United States Postal Service, an air carrier transporting or handling—

(1) United States mail shall submit evidence, signed by an authorized official, that the transportation or handling has been provided; and

(2) mail of a foreign country shall submit evidence, signed by an authorized official, of the amount of mail transported or handled and the compensation payable and received for that transportation or handling.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1157.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41911	49 App.:1375(g).	Aug. 23, 1958, Pub. L. 85–726, § 405(g), 72 Stat. 762.

The word ''duly'' is omitted as surplus.

§ 41912. Effect on foreign postal arrangements

This part does not—

(1) affect an arrangement made by the United States Government with the postal administration of a foreign country related to the transportation of mail by aircraft; or

(2) impair the authority of the United States Postal Service to make such an arrangement.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1157.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41912	49 App.:1375(e)(1).	Aug. 23, 1958, Pub. L. 85–726, § 405(e)(1), 72 Stat. 761.

In clause (1), the words ''abrogate or'' are omitted as being included in ''affect''.

CHAPTER 421—LABOR-MANAGEMENT PROVISIONS

SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM

Sec.
42101. Definitions.
42102. Payments to eligible protected employees.
42103. Duty to hire protected employees.
42104. Congressional review of regulations.
42105. Airline Employees Protective Account.
42106. Ending effective date.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

42111. Mutual aid agreements.
42112. Labor requirements of air carriers.

SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM

§ 42101. Definitions

(a) GENERAL.—In this subchapter—

(1) ''eligible protected employee'' means a protected employee who is deprived of employment, or who is adversely affected related to compensation, because of a qualifying dislocation.

(2) ''major contraction'' means a reduction (except as provided in subsection (b) of this section) of at least 7.5 percent in the number of full-time employees of an air carrier within a 12-month period, except for employees deprived of employment because of a strike or whose employment is ended for cause.

(3) ''protected employee'' means an individual who on October 24, 1978, had been employed for at least 4 years by an air carrier that held a certificate under section 401 of the Federal Aviation Act of 1958, but does not include a director or officer of a corporation.

(4) ''qualifying dislocation'' means a bankruptcy or major contraction of an air carrier holding a certificate under section 41102 of this title when the Secretary of Transportation finds the bankruptcy or contraction occurred after December 31, 1978, and before January 1, 1989, the major cause of which was the change in regulatory structure provided by the Airline Deregulation Act of 1978.

(b) MAJOR CONTRACTION.—The Secretary may find a reduction of less than 7.5 percent of the number of full-time employees is part of a major contraction if the Secretary decides another reduction is likely to occur within the 12-month period in which the first reduction occurs that, when included with the first reduction, will result in a total reduction of more than 7.5 percent.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1157.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42101(a)(1) ..	49 App.:1552(a)(1) (last sentence).	Oct. 24, 1978, Pub. L. 95–504, § 43(a)(1) (last sentence), (h), (i), 92 Stat. 1750, 1753.
42101(a)(2) ..	49 App.:1552(h)(4) (1st, last sentences).	
42101(a)(3) ..	49 App.:1552(h)(1).	
42101(a)(4) ..	49 App.:1552(h)(2), (3), (i).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42101(b)	49 App.:1552(h)(4) (2d sentence), (i).	

In this subchapter, the words ''whose employment is ended'' are substituted for ''terminated'' for clarity.

In subsection (a)(2), the words ''(except as provided in subsection (b) of this section)'' are added because of the restatement. The word ''total'' is omitted as surplus. The words ''except for'' are substituted for ''In computing a 7½ percent reduction under this paragraph, the Board shall not include'' to eliminate unnecessary words.

In subsection (a)(3), the word ''individual'' is substituted for ''person'' for consistency. The words ''members of the board of'' are omitted as surplus.

In subsection (a)(4), the text of 49 App.:1552(h)(3) is omitted as surplus because the complete name of the Secretary of Labor is used the first time the term appears in a section.

In subsection (b), the word ''particular'' is omitted as surplus. The words ''of the number of full-time employees'' are added for clarity. The words ''of an air carrier'' are omitted as surplus. The word ''result'' is added for clarity.

REFERENCES IN TEXT

Section 401 of the Federal Aviation Act of 1958, referred to in subsec. (a)(3), is section 401 of Pub. L. 85–726, which was classified to section 1371 of former Title 49, Transportation, and was repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For disposition of section 1371 of former Title 49, see Table at the beginning of Title 49.

The Airline Deregulation Act of 1978, referred to in subsec. (a)(4), is Pub. L. 95–504, Oct. 24, 1978, 92 Stat. 1705, as amended, which was classified principally to sections of former Title 49, Transportation. The Act was substantially repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

§ 42102. Payments to eligible protected employees

(a) AUTHORITY TO PAY AND APPLICATIONS FOR PAYMENTS.—Subject to amounts provided in an appropriation law, the Secretary of Labor shall make monthly assistance payments, moving expense payments, and reimbursement payments as provided under this section to an eligible protected employee whose employment is not ended for cause. The employee must apply to receive the payments and cooperate with the Secretary in finding other employment.

(b) NUMBER AND AMOUNT OF PAYMENTS.—(1) Subject to amounts provided in an appropriation law, an eligible protected employee shall receive 72 monthly assistance payments. However, an eligible protected employee deprived of employment may not receive a payment after obtaining other employment. For each class or craft of protected employees, the Secretary of Labor, after consulting with the Secretary of Transportation, shall prescribe by regulation guidelines for computing the amount of each monthly assistance payment to be made to a member of the class or craft and what percentage of salary that payment represents.

(2) The amount of a monthly payment payable under paragraph (1) of this subsection to an eligible protected employee shall be reduced—

(A) by unemployment compensation the employee receives; or

(B) if the employee does not accept reasonably comparable employment, to an amount the employee would be entitled to receive if the employee had accepted the employment.

(3) If accepting comparable employment to avoid a reduction in the monthly assistance payment under paragraph (2) of this subsection would force an eligible protected employee to relocate, the employee may decide not to relocate. Instead of the payments provided under this section, the employee may receive the lesser of 3 payments or the maximum number of payments that remain to be paid under paragraph (1) of this subsection.

(c) MOVING EXPENSES AND REIMBURSEMENTS.—(1) Subject to amounts provided in an appropriation law, an eligible protected employee who relocates shall receive—

(A) reasonable moving expense payments to move the employee and the employee's immediate family; and

(B) reimbursement payments for a loss incurred in selling the employee's principal place of residence for less than fair market value or in cancelling a lease on, or contract to buy, the residence.

(2) The Secretary of Labor shall decide on the amount of the moving expenses and the fair market value of the residence.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1158.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42102(a)	49 App.:1552(a)(1) (1st sentence), (2), (d)(2) (4th sentence).	Oct. 24, 1978, Pub. L. 95–504, § 43(a)(1) (1st sentence), (2), (b), (c), (d)(2) (4th sentence), (e), (i), 92 Stat. 1750, 1752, 1753.
42102(b)	49 App.:1552(b), (e), (i).	
42102(c)	49 App.:1552(c).	

In subsection (a), the words ''moving expense payments'' are added to reflect all 3 types of payments authorized under this section. The words ''in amounts computed'' are omitted as surplus. The word ''must'' is substituted for ''shall, as a condition to receiving such expenses or payments'' to eliminate unnecessary words. The word ''fully'' is omitted as surplus.

In subsection (b)(1), the words ''an eligible protected employee shall receive 72 monthly assistance payments'' are substituted for 49 App.:1552(e)(1) (1st–22d and 29th–49th words) and (2) to eliminate unnecessary words. The words ''However, an eligible protected employee deprived of employment may not receive a payment after obtaining other employment'' are substituted for ''until the recipient obtains other employment . . . whichever first occurs'' because of the restatement. The text of 49 App.:1552(b)(1) (1st sentence) and the words ''by him'' are omitted as surplus. The words ''by regulation'' are substituted for ''by rule'' for consistency in the revised title and with other titles of the United States Code and because ''rule'' and ''regulation'' are synonymous. The word ''computing'' is substituted for ''determining'' for clarity. The word ''applicable'' is omitted as surplus.

Subsection (b)(2) is substituted for 49 App.:1552(b)(1) (last sentence) and (2) (1st sentence) to eliminate unnecessary words.

In subsection (b)(3), the words ''force an eligible protected employee to relocate'' are substituted for ''require relocation'', and the words ''under this section'' are substituted for ''herein'', for clarity. The words ''the monthly assistance payments to which he would be entitled if this paragraph were not in effect, except that the total number of such payments shall be'' and ''the maximum provided in'' are omitted as surplus.

In subsection (c)(1), before clause (A), the words ''in order to obtain other employment, such employee'' are omitted as surplus. In clause (B), the words ''at a price'' and ''agreement'' are omitted as surplus.

§ 42103. Duty to hire protected employees

(a) REHIRING PROTECTED EMPLOYEES.—A protected employee of an air carrier regulated by the Secretary of Transportation who was furloughed or whose employment was ended by the carrier (except for cause) before October 23, 1988, is entitled to be the first employed in the occupational specialty of the employee, regardless of the employee's age, by any other air carrier holding a certificate under section 41102 of this title before October 24, 1978. However, the air carrier may recall its furloughed employees before hiring a protected employee of another air carrier regulated by the Secretary who was furloughed or whose employment was ended by the other carrier (except for cause) before October 23, 1988. An employee hired by an air carrier under this section retains seniority and recall rights with the air carrier that furloughed or ended the employment of the employee.

(b) DUTIES OF SECRETARY OF LABOR.—The Secretary of Labor—

(1) shall establish and publish periodically a list of jobs available with an air carrier holding a certificate under section 41102 of this title that includes necessary information and detail;

(2) shall assist eligible protected employees to find other employment;

(3) shall encourage negotiations between air carriers and representatives of employees on rehiring practices and seniority; and

(4) may require an air carrier to file with the Secretary information necessary to carry out this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1159.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42103(a)	49 App.:1552(d)(1), (i).	Oct. 24, 1978, Pub. L. 95–504, § 43(d)(1), (2) (1st–3d, last sentences), (3), (i), 92 Stat. 1751, 1752, 1753.
42103(b)	49 App.:1552(d)(2) (1st–3d, last sentences), (3).	

In subsection (a), the words ''person who is a'' and ''otherwise'' are omitted as surplus. The words ''before October 23, 1988'' are substituted for ''prior to the last day of the 10-year period beginning on October 24, 1978'', and the words ''is entitled to be the first employed'' are substituted for ''shall have first right of hire'', for clarity. The words ''hiring additional employees'', ''Each such air carrier hiring additional employees shall have a duty to hire such a person before they hire any other person'', ''own'', and ''who is furloughed or otherwise terminated (other than for cause), and'' are omitted as surplus.

In subsection (b)(1), the words ''comprehensive'' and ''such as job descriptions and required skills, the Secretary deems relevant and'' are omitted as surplus.

In subsection (b)(2), the words ''In addition to publishing the list'' are omitted as unnecessary because of the restatement. The words ''make every effort to'' are omitted as surplus.

In subsection (b)(3), the words ''In addition to making monthly assistance or reimbursement payments under this section'' are omitted because of the restatement.

In subsection (b)(4), the words ''In order to carry out his responsibilities under this subsection'' and ''reports, data, and other'' are omitted as surplus. The words ''carry out'' are substituted for ''fulfill his duties under'' for consistency.

§ 42104. Congressional review of regulations

(a) DEFINITION.—In this section, ''legislative day'' means a calendar day on which both Houses of Congress are in session.

(b) SUBMISSION TO CONGRESS.—The Secretary of Labor may not prescribe a regulation under this subchapter until 30 legislative days after the regulation is submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(c) EFFECTIVENESS OF REGULATIONS.—A proposed regulation under this subchapter shall be submitted to Congress and becomes effective only if, during the period of 60 legislative days after the regulation is submitted to Congress, either House does not pass a resolution disapproving the regulation. However, if Congress adopts a resolution approving the regulation during the 60-day period, the regulation is effective on that date.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1159.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42104(a)	49 App.:1552(f)(4).	Oct. 24, 1978, Pub. L. 95–504, § 43(f), 92 Stat. 1752.
42104(b), (c)	49 App.:1552(f) (1)–(3).	

In subsection (a), the words ''the term'' are omitted as surplus.

In subsections (b) and (c), the word ''final'' is omitted as surplus.

In subsection (b), the word ''prescribe'' is substituted for ''issue'' for consistency. The word ''rule'' is omitted as being synonymous with ''regulation''. The text of 49 App.:1552(f)(1) is omitted as unnecessary. The text of 49 App.:1552(f)(2) is omitted as executed.

In subsection (c), the word ''proposed'' is added for clarity. The words ''by the Secretary under this section . . . regulation'' are omitted as surplus. The words ''the regulation is submitted to Congress'' are substituted for ''the date of such submission'' for clarity. The words ''stating that that House'' and ''by both Houses stating that the'' are omitted as surplus.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives changed to Committee on Transportation and Infrastructure of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

§ 42105. Airline Employees Protective Account

The Department of Labor has an Airline Employees Protective Account consisting of amounts appropriated to it. An amount necessary to carry out this subchapter, including administrative expenses, may be appropriated to the Account annually.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42105	49 App.:1552(g).	Oct. 24, 1978, Pub. L. 95–504, § 43(g), 92 Stat. 1752.

The first sentence is substituted for 49 App.:1552(g) (1st sentence) for consistency. The words ''beginning with the fiscal year ending September 30, 1979'' are omitted as executed. The words ''the purposes of'' and ''amounts necessary for the . . . of the Secretary related to carrying out the provisions of this section'' are omitted as surplus.

§ 42106. Ending effective date

This subchapter is not effective after the last day the Secretary of Labor must make a payment under this subchapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42106	49 App.:1552(j).	Oct. 24, 1978, Pub. L. 95–504, § 43(j), 92 Stat. 1753.

The words ''is not effective after'' are substituted for ''shall terminate on'' for clarity and consistency in the revised title.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 40109, 41110, 46301 of this title.

§ 42111. Mutual aid agreements

An air carrier that will receive payments from another air carrier under an agreement between the air carriers for the time the one air carrier is not providing foreign air transportation, or is providing reduced levels of foreign air transportation, because of a labor strike must file a true copy of the agreement with the Secretary of Transportation and have it approved by the Secretary under section 41309 of this title. Notwithstanding section 41309, the Secretary shall approve the agreement only if it provides that—

(1) the air carrier will receive payments of not more than 60 percent of direct operating expenses, including interest expenses, but not depreciation or amortization expenses;

(2) benefits may be paid for not more than 8 weeks, and may not be for losses incurred during the first 30 days of a strike; and

(3) on request of the striking employees, the dispute will be submitted to binding arbitration under the Railway Labor Act (45 U.S.C. 151 et seq.).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42111	49 App.:1382(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 412(c); added Oct. 24, 1978, Pub. L. 95–504, § 29(a), 92 Stat. 1730; Feb. 15, 1980, Pub. L. 96–192, § 11(2), 94 Stat. 39; Oct. 4, 1984, Pub. L. 98–443, § 9(s), 98 Stat. 1708.
	49 App.:1551(b) (1)(C) (related to 49 App.:1382(c)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(C) (related to § 412(c)); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, § 4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, § 3(a), 98 Stat. 1703.

In this section, before clause (1), the text of 49 App.:1382(c)(1) is omitted as executed. The words ''For purposes of this subsection, the term . . . (A) 'mutual aid agreement' means'' are omitted because of the restatement. The words ''contract or'', ''which are parties to such contract or agreement'', and ''during which'' are omitted as surplus. The word ''providing'' is substituted for ''engaging in'' for consistency. The words ''service in'' are omitted as surplus. The words ''No air carrier shall enter into any mutual aid agreement with any other air carrier'' are omitted as surplus. In clause (1), the words ''For purposes of this subsection, the term . . . (B) 'direct operating expenses' includes'' are omitted because of the restatement. The words ''for any period'' and ''during such period'' are omitted as surplus. In clause (2), the words ''under the agreement'' and ''during any labor strike'' are omitted as surplus.

REFERENCES IN TEXT

The Railway Labor Act, referred to in par. (3), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§ 151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41101, 41308, 41503, 41710 of this title.

§ 42112. Labor requirements of air carriers

(a) DEFINITIONS.—In this section—

(1) ''copilot'' means an employee whose duties include assisting or relieving the pilot in manipulating an aircraft and who is qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a copilot.

(2) ''pilot'' means an employee who is—

(A) responsible for manipulating or who manipulates the flight controls of an aircraft when under way, including the landing and takeoff of an aircraft; and

(B) qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a pilot.

(b) DUTIES OF AIR CARRIERS.—An air carrier shall—

(1) maintain rates of compensation, maximum hours, and other working conditions and relations for its pilots and copilots who are providing interstate air transportation in the 48 contiguous States and the District of Columbia to conform with decision number 83, May 10, 1934, National Labor Board, notwithstanding any limitation in that decision on the period of its effectiveness;

(2) maintain rates of compensation for its pilots and copilots who are providing foreign air transportation or air transportation only in one territory or possession of the United States; and

(3) comply with title II of the Railway Labor Act (45 U.S.C. 181 et seq.) as long as it holds its certificate.

(c) MINIMUM ANNUAL RATE OF COMPENSATION.—A minimum annual rate under subsection (b)(2) of this section may not be less than the annual rate required to be paid for comparable service to a pilot or copilot under subsection (b)(1) of this section.

(d) COLLECTIVE BARGAINING.—This section does not prevent pilots or copilots of an air carrier from obtaining by collective bargaining higher rates of compensation or more favorable working conditions or relations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42112(a)	49 App.:1371(k)(5).	Aug. 23, 1958, Pub. L. 85–726, § 401(k), 72 Stat. 756.
42112(b), (c)	49 App.:1371(k)(1), (2), (4).	
42112(d)	49 App.:1371(k)(3).	

In subsection (a), the words ''properly'' and ''currently'' are omitted as surplus.

In subsection (b), the word ''providing'' is substituted for ''engaged in'' for consistency in the revised title. In clause (1), the words ''48 contiguous States and the District of Columbia'' are substituted for ''the continental United States (not including Alaska)'' for clarity and consistency in the revised title. In clause (2), the words ''overseas or'' are omitted as obsolete. The word ''only'' is substituted for ''wholly'' for consistency. In clause (3), the words ''as long as it holds'' are substituted for ''upon the holding'' for clarity.

In subsection (c), the words ''under subsection (b)(1) of this section'' are substituted for ''said decision 83 . . . engaged in interstate air transportation within the continental United States (not including Alaska)'' to eliminate unnecessary words.

In subsection (d), the words ''or other employees'' are omitted as unnecessary because this section only applies to pilots and copilots.

REFERENCES IN TEXT

The Railway Labor Act, referred to in subsec. (b)(3), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended. Title II of the Act was added by act Apr. 10, 1936, ch. 166, 49 Stat. 1189, and is classified generally to subchapter II (§ 181 et seq.) of chapter 8 of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40109 of this title; title 39 section 5402.

SUBPART III—SAFETY

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 40101, 40102 of this title.

CHAPTER 441—REGISTRATION AND RECORDATION OF AIRCRAFT

Sec.
44101. Operation of aircraft.
44102. Registration requirements.
44103. Registration of aircraft.
44104. Registration of aircraft components and dealers' certificates of registration.
44105. Suspension and revocation of aircraft certificates.
44106. Revocation of aircraft certificates for controlled substance violations.
44107. Recordation of conveyances, leases, and security instruments.
44108. Validity of conveyances, leases, and security instruments.
44109. Reporting transfer of ownership.
44110. Information about aircraft ownership and rights.
44111. Modifications in registration and recordation system for aircraft not providing air transportation.
44112. Limitation of liability.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 40102, 45302, 46301, 46316 of this title.

§ 44101. Operation of aircraft

(a) REGISTRATION REQUIREMENT.—Except as provided in subsection (b) of this section, a person may operate an aircraft only when the aircraft is registered under section 44103 of this title.

(b) EXCEPTIONS.—A person may operate an aircraft in the United States that is not registered—

(1) when authorized under section 40103(d) or 41703 of this title;

(2) when it is an aircraft of the national defense forces of the United States and is identified in a way satisfactory to the Administrator of the Federal Aviation Administration; and

(3) for a reasonable period of time after a transfer of ownership, under regulations prescribed by the Administrator.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1161.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44101(a)	49 App.:1401(a) (1st sentence words before proviso less words between parentheses).	Aug. 23, 1958, Pub. L. 85–726, § 501(a), 72 Stat. 771.
44101(b)	49 App.:1401(a) (1st sentence words between parentheses, proviso, last sentence).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, the word ''navigate'' is omitted as being included in the definition of ''operate aircraft'' in section 40102(a) of the revised title.

In subsection (a), the words ''Except as provided in subsection (b) of this section'' are added for clarity. The words ''a person may . . . an aircraft only when the aircraft is registered under section 44103 of this title'' are substituted for ''It shall be unlawful . . . any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or . . . any aircraft not eligible for registration'' for clarity and to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''A person may operate an aircraft in the United States that

is not registered'' are substituted for ''may be operated and navigated without being so registered'' and ''may . . . permit the operation and navigation of aircraft without registration'' for clarity. In clause (2), the words ''identified in a way'' are substituted for ''identified, by the agency having jurisdiction over them, in a manner'' to eliminate unnecessary words.

§ 44102. Registration requirements

(a) ELIGIBILITY.—An aircraft may be registered under section 44103 of this title only when the aircraft is—

(1) not registered under the laws of a foreign country and is owned by—

(A) a citizen of the United States;

(B) an individual citizen of a foreign country lawfully admitted for permanent residence in the United States; or

(C) a corporation not a citizen of the United States when the corporation is organized and doing business under the laws of the United States or a State, and the aircraft is based and primarily used in the United States; or

(2) an aircraft of—

(A) the United States Government; or

(B) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of a State, territory, or possession.

(b) DUTY TO DEFINE CERTAIN TERM.—In carrying out subsection (a)(1)(C) of this section, the Secretary of Transportation shall define ''based and primarily used in the United States''.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1161.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44102(a)(1) ..	49 App.:1401(b) (1st sentence cl. (1)).	Aug. 23, 1958, Pub. L. 85–726, § 501(b), 72 Stat. 772; restated Nov. 9, 1977, Pub. L. 95–163, § 14, 91 Stat. 1283; Mar. 8, 1978, Pub. L. 95–241, 92 Stat. 119.
44102(a)(2) ..	49 App.:1401(b) (1st sentence cl. (2)).	
44102(b)	49 App.:1401(b) (last sentence).	

In subsection (a), before clause (1), the words ''may be registered'' are substituted for ''shall be eligible for registration'', and the words ''under section 44103 of this title'' are added, for clarity. The words ''only when'' are substituted for ''if, but only if'' for consistency. In subclause (C), the words ''not a citizen of the United States'' are substituted for ''(other than a corporation which is a citizen of the United States)'' to eliminate unnecessary words. The word ''lawfully'' is omitted as surplus.

In subsection (b), the words ''In carrying out subsection (a)(1)(C) of this section'' are added because of the restatement. The words ''by regulation'' are omitted as unnecessary because of 49:322(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44103, 44105, 44106, 46306 of this title.

§ 44103. Registration of aircraft

(a) GENERAL.—(1) On application of the owner of an aircraft that meets the requirements of section 44102 of this title, the Administrator of the Federal Aviation Administration shall—

(A) register the aircraft; and

(B) issue a certificate of registration to its owner.

(2) The Administrator may prescribe the extent to which an aircraft owned by the holder of a dealer's certificate of registration issued under section 44104(2) of this title also is registered under this section.

(b) CONTROLLED SUBSTANCE VIOLATIONS.—(1) The Administrator may not issue an owner's certificate of registration under subsection (a)(1) of this section to a person whose certificate is revoked under section 44106 of this title during the 5-year period beginning on the date of the revocation, except—

(A) as provided in section 44106(e)(2) of this title; or

(B) that the Administrator may issue the certificate to the person after the one-year period beginning on the date of the revocation if the Administrator decides that the aircraft otherwise meets the requirements of section 44102 of this title and that denial of a certificate for the 5-year period—

(i) would be excessive considering the nature of the offense or the act committed and the burden the denial places on the person; or

(ii) would not be in the public interest.

(2) A decision of the Administrator under paragraph (1)(B)(i) or (ii) of this subsection is within the discretion of the Administrator. That decision or failure to make a decision is not subject to administrative or judicial review.

(c) CERTIFICATES AS EVIDENCE.—A certificate of registration issued under this section is—

(1) conclusive evidence of the nationality of an aircraft for international purposes, but not conclusive evidence in a proceeding under the laws of the United States; and

(2) not evidence of ownership of an aircraft in a proceeding in which ownership is or may be in issue.

(d) CERTIFICATES AVAILABLE FOR INSPECTION.—An operator of an aircraft shall make available for inspection a certificate of registration for the aircraft when requested by a United States Government, State, or local law enforcement officer.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1162.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44103(a)(1) ..	49 App.:1401(c), (d).	Aug. 23, 1958, Pub. L. 85–726, §§ 501(c), (d), (f), 505 (2d sentence), 72 Stat. 772, 774.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44103(a)(2) ..	49 App.:1405 (2d sentence).	
	49 App.:1655(c)(1).	
44103(b)	49 App.:1401(e)(2)(D), (E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 501(e)(2)(D), (E); added Oct. 19, 1984, Pub. L. 98–499, § 4(a), 98 Stat. 2315.
44103(c)	49 App.:1401(f).	
44103(d)	49 App.:1401(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 501(g); added Oct. 27, 1986, Pub. L. 99–570, § 3401(a)(2), 100 Stat. 3207–99.

In subsection (a)(1), the words ''On application'' are substituted for ''upon request'', and the words ''meets the requirements of section 44102 of this title'' are substituted for ''eligible for registration'', for consistency in this subchapter. The text of 49 App.:1401(d) is omitted as unnecessary because of 49:322(a).

In subsection (b)(1)(B), before subclause (i), the words ''after the one-year period beginning on the date of the revocation'' are substituted for ''before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation)'' for clarity and to eliminate unnecessary words. The words ''otherwise meets the requirements of section 44102 of this title'' are substituted for ''is otherwise eligible for registration under this section'' because of the restatement. The words ''denial of a certificate'' are substituted for ''revocation of the certificate'' for clarity.

In subsection (c), before clause (1), the words ''A certificate of registration'' are substituted for ''Registration'' for clarity. In clause (2), the words ''by a particular person'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44101, 44102, 44105, 44106, 44109, 44110, 46306 of this title; title 10 section 9512.

§ 44104. Registration of aircraft components and dealers' certificates of registration

The Administrator of the Federal Aviation Administration may prescribe regulations—

(1) in the interest of safety for registering and identifying an aircraft engine, propeller, or appliance; and

(2) in the public interest for issuing, suspending, and revoking a dealer's certificate of registration under this chapter and for its use by a person manufacturing, distributing, or selling aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1162.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44104(1)	49 App.:1402.	Aug. 23, 1958, Pub. L. 85–726, §§ 502, 505 (1st sentence), 72 Stat. 772, 774.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44104(2)	49 App.:1405 (1st sentence).	
	49 App.:1655(c)(1).	

In this section, before clause (1), the words ''prescribe regulations'' are substituted for ''establish reasonable rules and regulations'' in 49 App.:1402 and ''by such reasonable regulations'' in 49 App.:1405 (1st sentence) because of 49:322(a). In clause (1), the words ''and no aircraft engine, propeller, or appliance shall be used in violation of any such rule or regulation'' are omitted as surplus because of section 46301 of the revised title. In clause (2), the words ''in connection with'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44103 of this title.

§ 44105. Suspension and revocation of aircraft certificates

The Administrator of the Federal Aviation Administration may suspend or revoke a certificate of registration issued under section 44103 of this title when the aircraft no longer meets the requirements of section 44102 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1163.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44105	49 App.:1401(e)(1).	Aug. 23, 1958, Pub. L. 85–726, § 501(e)(1), 72 Stat. 772; Oct. 19, 1984, Pub. L. 98–499, § 4(a), 98 Stat. 2314.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The words ''when the aircraft no longer meets'' are substituted for ''for any cause which renders the aircraft ineligible'' for consistency.

§ 44106. Revocation of aircraft certificates for controlled substance violations

(a) DEFINITION.—In this section, ''controlled substance'' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATIONS.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking the certificate of registration for an aircraft issued to an owner under section 44103 of this title and any other certificate of registration that the owner of the aircraft holds under section 44103, if the Administrator finds that—

(A) the aircraft was used to carry out, or facilitate, an activity that is punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance); and

(B) the owner of the aircraft permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in clause (A) of this paragraph.

(2) An aircraft owner that is not an individual is deemed to have permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in paragraph (1)(A) of this subsection only if a majority of the individuals who control the owner of the aircraft or who are involved in forming the major policy of the owner permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in paragraph (1)(A).

(c) ADVICE TO HOLDERS AND OPPORTUNITY TO ANSWER.—Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator shall—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator bases the proposed action; and

(2) provide the holder of the certificate an opportunity to answer the charges and state why the certificate should not be revoked.

(d) APPEALS.—(1) A person whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and a hearing on the record. In conducting the hearing, the Board

is not bound by the findings of fact of the Administrator.

(2) When a person files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall dispose of the appeal not later than 60 days after notification by the Administrator under this paragraph.

(3) A person substantially affected by an order of the Board under this subsection may seek judicial review of the order under section 46110 of this title. The Administrator shall be made a party to that judicial proceeding.

(e) ACQUITTAL.—(1) The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate of registration under this section on the basis of an activity described in subsection (b)(1)(A) of this section if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked a certificate of registration of a person under this section because of an activity described in subsection (b)(1)(A) of this section, the Administrator shall reissue a certificate to the person if the person—

(A) subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; and

(B) otherwise meets the requirements of section 44102 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1163.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44106(a)	49 App.:1401(e)(2)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 501(e)(2)(A)–(C), (F); added Oct. 19, 1984, Pub. L. 98–499, § 4(a), 98 Stat. 2314, 2315.
44106(b)	49 App.:1401(e)(2)(A) (less last sentence).	
44106(c)	49 App.:1401(e)(2)(B) (1st sentence).	
44106(d)	49 App.:1401(e)(2)(B) (2d–last sentences).	
44106(e)	49 App.:1401(e)(2)(A) (last sentence), (F).	

In subsection (b)(2), the words ''knowing that the aircraft was to be used for the activity described in paragraph (1)(A) of this subsection'' are substituted for ''with knowledge of such intended use'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1133, 44103 of this title.

§ 44107. Recordation of conveyances, leases, and security instruments

(a) ESTABLISHMENT OF SYSTEM.—The Administrator of the Federal Aviation Administration shall establish a system for recording—

(1) conveyances that affect an interest in civil aircraft of the United States;

(2) leases and instruments executed for security purposes, including conditional sales contracts, assignments, and amendments, that affect an interest in—

(A) a specifically identified aircraft engine having at least 750 rated takeoff horsepower or its equivalent;

(B) a specifically identified aircraft propeller capable of absorbing at least 750 rated takeoff shaft horsepower;

(C) an aircraft engine, propeller, or appliance maintained for installation or use in an aircraft, aircraft engine, or propeller, by or for an air carrier holding a certificate issued under section 44705 of this title; and

(D) spare parts maintained by or for an air carrier holding a certificate issued under section 44705 of this title; and

(3) releases, cancellations, discharges, and satisfactions related to a conveyance, lease, or instrument recorded under clause (1) or (2) of this subsection.

(b) GENERAL DESCRIPTION REQUIRED.—A lease or instrument recorded under subsection (a)(2)(C) or (D) of this section only has to describe generally the engine, propeller, appliance, or spare part by type and designate its location.

(c) ACKNOWLEDGMENT.—Except as the Administrator otherwise may provide, a conveyance, lease, or instrument may be recorded under subsection (a) of this section only after it has been acknowledged before—

(1) a notary public; or

(2) another officer authorized under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States to acknowledge deeds.

(d) RECORDS AND INDEXES.—The Administrator shall—

(1) keep a record of the time and date that each conveyance, lease, and instrument is filed and recorded with the Administrator; and

(2) record each conveyance, lease, and instrument filed with the Administrator, in the order of their receipt, and index them by—

(A) the identifying description of the aircraft, aircraft engine, or propeller, or location specified in a lease or instrument recorded under subsection (a)(2)(C) or (D) of this section; and

(B) the names of the parties to each conveyance, lease, and instrument.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1164.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44107(a)(1) ..	49 App.:1403(a)(1).	Aug. 23, 1958, Pub. L. 85–726, § 503(a)(1), (3), (b), 72 Stat. 772.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44107(a)(2)(A), (B).	49 App.:1403(a)(2).	Aug. 23, 1958, Pub. L. 85–726, § 503(a)(2), 72 Stat. 772; restated July 8, 1959, Pub. L. 86–81, § 1, 73 Stat. 180.
	49 App.:1655(c)(1).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44107(a)(2)(C), (D).	49 App.:1403(a)(3) (less words between 13th comma and semicolon).	
	49 App.:1655(c)(1).	
44107(a)(3) ..	49 App.:1403(b).	
	49 App.:1655(c)(1).	
44107(b)	49 App.:1403(a)(3) (words between 13th comma and semicolon).	
44107(c)	49 App.:1403(e).	Aug. 23, 1958, Pub. L. 85–726, § 503(e), 72 Stat. 773; restated June 30, 1964, Pub. L. 88–346, § 2, 78 Stat. 236.
	49 App.:1655(c)(1).	
44107(d)	49 App.:1403(f).	Aug. 23, 1958, Pub. L. 85–726, § 503(f), 72 Stat. 773; July 8, 1959, Pub. L. 86–81, § 4, 73 Stat. 181.
	49 App.:1655(c)(1).	

In subsection (a)(1) and (2), the words ''title to'' are omitted as being included in ''interest in''.

In subsection (a)(2), before subclause (A), the word ''instruments'' is substituted for ''any mortgage, equipment trust . . . or other instrument'' because it is inclusive. The word ''supplement'' is omitted as being included in ''amendments''.

In subsection (a)(3), the words ''The Secretary of Transportation shall also record under the system'' are omitted as unnecessary because of the restatement.

In subsections (a)(3) and (c), the words ''lease, or instrument'' are substituted for ''other instrument'' for clarity and consistency in this subchapter.

In subsections (b) and (d), the words ''or locations'' are omitted because of 1:1.

In subsection (b), the words ''recorded under subsection (a)(2)(C) or (D) of this section'' are added for clarity. The words ''lease or instrument'' are substituted for ''instrument'' for clarity and consistency in this subchapter.

In subsection (c), before clause (1), the words ''by regulation'' are omitted because of 49:322(a). In clause (2), the words ''possession of the United States'' are substituted for ''possession thereof'' for clarity.

In subsection (d), the words ''lease, and instrument'' are substituted for ''other instruments'' for clarity and consistency in this subchapter. In clause (1), the words ''of the time and date of'' before ''recordation'' are omitted as unnecessary because of the restatement. In clause (2), before subclause (A), the words ''in files to be kept for that purpose'' are omitted as unnecessary. In subclause (A), the words ''location specified in a lease or instrument recorded under subsection (a)(2)(C) or (D) of this section'' are substituted for ''in the case of an instrument referred to in subsection (a)(3) of this section, the location or locations specified therein'' for clarity and consistency in this subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44108, 44704 of this title.

§ 44108. Validity of conveyances, leases, and security instruments

(a) VALIDITY BEFORE FILING.—Until a conveyance, lease, or instrument executed for security purposes that may be recorded under section 44107(a)(1) or (2) of this title is filed for recording, the conveyance, lease, or instrument is valid only against—

(1) the person making the conveyance, lease, or instrument;

(2) that person's heirs and devisees; and

(3) a person having actual notice of the conveyance, lease, or instrument.

(b) PERIOD OF VALIDITY.—When a conveyance, lease, or instrument is recorded under section 44107 of this title, the conveyance, lease, or instrument is valid from the date of filing against all persons, without other recordation, except that—

(1) a lease or instrument recorded under section 44107(a)(2)(A) or (B) of this title is valid for a specifically identified engine or propeller without regard to a lease or instrument previously or subsequently recorded under section 44107(a)(2)(C) or (D); and

(2) a lease or instrument recorded under section 44107(a)(2)(C) or (D) of this title is valid only for items at the location designated in the lease or instrument.

(c) APPLICABLE LAWS.—(1) The validity of a conveyance, lease, or instrument that may be recorded under section 44107 of this title is subject to the laws of the State, the District of Columbia, or the territory or possession of the United States at which the conveyance, lease, or instrument is delivered, regardless of the place at which the subject of the conveyance, lease, or instrument is located or delivered. If the conveyance, lease, or instrument specifies the place at which delivery is intended, it is presumed that the conveyance, lease, or instrument was delivered at the specified place.

(2) This subsection does not take precedence over the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830).

(d) NONAPPLICATION.—This section does not apply to—

(1) a conveyance described in section 44107(a)(1) of this title that was made before August 22, 1938; or

(2) a lease or instrument described in section 44107(a)(2) of this title that was made before June 20, 1948.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1165.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44108(a)	49 App.:1403(c) (less words after semicolon).	Aug. 23, 1958, Pub. L. 85–726, § 503(c), 72 Stat. 773.
44108(b)	49 App.:1403(d).	Aug. 23, 1958, Pub. L. 85–726, § 503(d), 72 Stat. 773; July 8, 1959, Pub. L. 86–81, § 3, 73 Stat. 181.
44108(c)(1) ..	49 App.:1406.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 506; added June 30, 1964, Pub. L. 88–346, § 1(a), 78 Stat. 236.
44108(c)(2) ..	49 App.:1406 (note).	June 30, 1964, Pub. L. 88–346, § 1(c), 78 Stat. 236.
44108(d)	49 App.:1403(c) (words after semicolon).	

In subsection (a), before clause (1), the words ''conveyance, lease, or instrument executed for security purposes'' are substituted for ''conveyance or instrument'' for clarity and consistency in this subchapter. The words ''in respect of such aircraft, aircraft engine or engines, propellers, appliances, or spare parts'' are omitted as surplus. The text of 49 App.:1403(c) (proviso words before semicolon) is omitted because of section 7(d) of this bill. In clause (1), the words ''person making the conveyance, lease, or instrument'' are substituted for ''the person by whom the conveyance or other instrument is made or given'' to eliminate unnecessary words and for consistency in this subchapter.

In subsection (b), before clause (1), the words ''When a conveyance, lease, or instrument is recorded under section 44107 of this title . . . from the date of filing''

are substituted for ''Each conveyance or other instrument recorded by means of or under the system provided for in subsection (a) or (b) of the section shall from the time of its filing for recordation'' for clarity and consistency in this subchapter and to eliminate unnecessary words. In clause (1), the words ''is valid'' are substituted for ''*Provided*, That . . . shall not be affected'' for consistency in this subchapter. The words ''or engines . . . or propellers'' are omitted because of 1:1. In clause (2), the words ''is valid'' are substituted for ''shall be effective'' for consistency in this subchapter. The words ''for items at the location designated in the lease or instrument'' are substituted for ''which may from time to time be situated at the designated location or locations and only while so situated'' for clarity and to eliminate unnecessary words.

In subsection (c)(1), the words ''conveyance, lease, or'' are added for consistency in this subchapter. The words ''the conveyance, lease, or instrument'' are substituted for ''therein'', and the words ''it is presumed'' are substituted for ''it shall constitute presumptive evidence'', for clarity.

In subsection (d)(2), the words ''lease or instrument'' are substituted for ''instrument'' for clarity and consistency in this subchapter.

§ 44109. Reporting transfer of ownership

(a) FILING NOTICES.—A person having an ownership interest in an aircraft for which a certificate of registration was issued under section 44103 of this title shall file a notice with the Secretary of the Treasury that the Secretary requires by regulation, not later than 15 days after a sale, conditional sale, transfer, or conveyance of the interest.

(b) EXEMPTIONS.—The Secretary—

(1) shall prescribe regulations that establish guidelines for exempting a person or class from subsection (a) of this section; and

(2) may exempt a person or class under the regulations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1166.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44109(a)	49 App.:1509(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1109(f); added Oct. 27, 1986, Pub. L. 99–570, § 3401(d)(1), 100 Stat. 3207–101.
44109(b)	49 App.:1509 (note).	Oct. 27, 1986, Pub. L. 99–570, § 3401(d)(2), 100 Stat. 3207–102.

In subsection (a), the text of 49 App.:1509(f) (last sentence) is omitted as unnecessary.

In subsection (b)(1), the words ''Within 30 days after the date of enactment of subsection (f) of section 1109 of the Federal Aviation Act of 1958 as added by this subsection'' are omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 46316 of this title.

§ 44110. Information about aircraft ownership and rights

The Administrator of the Federal Aviation Administration may provide by regulation for—

(1) endorsing information on each certificate of registration issued under section 44103 of this title and each certificate issued under section 44704 of this title about ownership of the aircraft for which each certificate is issued; and

(2) recording transactions affecting an interest in, and for other records, proceedings, and details necessary to decide the rights of a party related to, a civil aircraft of the United States, aircraft engine, propeller, appliance, or spare part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1166.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44110	49 App.:1403(g).	Aug. 23, 1958, Pub. L. 85–726, § 503(g), 72 Stat. 774.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In clause (1), the words ''each certificate of registration issued under section 44103 of this title and each certificate issued under section 44704 of this title'' are substituted for ''certificates of registration, or aircraft certificates'' for clarity and because of the restatement.

In clause (2), the words ''recording transactions'' are substituted for ''recording of discharges and satisfactions of recorded instruments, and other transactions'' to eliminate unnecessary words. The words ''title to'' are omitted as being included in ''interest in''. The words ''to decide'' are substituted for ''to facilitate the determination'' to eliminate unnecessary words. The words ''related to'' are substituted for ''dealing with'' for clarity. The word ''spare'' is added for consistency in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44704 of this title.

§ 44111. Modifications in registration and recordation system for aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) AUTHORITY TO MAKE MODIFICATIONS.—The Administrator of the Federal Aviation Administration shall make modifications in the system for registering and recording aircraft necessary to make the system more effective in serving the needs of—

(1) buyers and sellers of aircraft;

(2) officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)); and

(3) other users of the system.

(c) NATURE OF MODIFICATIONS.—Modifications made under subsection (b) of this section—

(1) may include a system of titling aircraft or registering all aircraft, even aircraft not operated;

(2) shall ensure positive, verifiable, and timely identification of the true owner; and

(3) shall address at least each of the following deficiencies in and abuses of the existing system:

(A) the registration of aircraft to fictitious persons.

(B) the use of false or nonexistent addresses by persons registering aircraft.

(C) the use by a person registering an aircraft of a post office box or ''mail drop'' as

a return address to evade identification of the person's address.

(D) the registration of aircraft to entities established to facilitate unlawful activities.

(E) the submission of names of individuals on applications for registration of aircraft that are not identifiable.

(F) the ability to make frequent legal changes in the registration markings assigned to aircraft.

(G) the use of false registration markings on aircraft.

(H) the illegal use of ''reserved'' registration markings on aircraft.

(I) the large number of aircraft classified as being in ''self-reported status''.

(J) the lack of a system to ensure timely and adequate notice of the transfer of ownership of aircraft.

(K) the practice of allowing temporary operation and navigation of aircraft without the issuance of a certificate of registration.

(d) REGULATIONS.—(1) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out this section and provide a written explanation of how the regulations address each of the deficiencies and abuses described in subsection (c) of this section. In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(2) Regulations prescribed under this subsection shall require that—

(A) each individual listed in an application for registration of an aircraft provide with the application the individual's driver's license number; and

(B) each person (not an individual) listed in an application for registration of an aircraft provide with the application the person's taxpayer identifying number.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1166.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44111(a)	49 App.:1303 (note).	Nov. 11, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
44111(b)	49 App.:1401(h) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 501(h); added Nov. 11, 1988, Pub. L. 100–690, § 7203(a), 102 Stat. 4424.
44111(c)	49 App.:1401(h) (last sentence).	
44111(d)	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7207(a), (b), 102 Stat. 4427.

In subsection (c)(3)(D), the words ''corporations and others'' are omitted as surplus.

In subsection (d)(1), the words ''Not later than September 18, 1989'' and ''final'' are omitted as obsolete. The words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092).

DRUG ENFORCEMENT STATUS AND PROGRESS; REPORTS TO CONGRESS; DEFINITIONS

Pub. L. 100–690, title VII, § 7207(d), (e), Nov. 18, 1988, 102 Stat. 4428, provided that:

''(d) REPORT.—Not later than 180 days after the date of the enactment of this subtitle [Nov. 18, 1988] and annually thereafter during the 5-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

''(1) The status of the rulemaking process, issuance of regulations, and implementation of regulations in accordance with this section [see subsec. (d) of this section].

''(2) The progress being made in reducing the number of aircraft classified by the Federal Aviation Administration as being in 'sale-reported status'.

''(3) The progress being made in expediting the filing and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

''(4) The status of establishing and collecting fees under section 313(f) of the Federal Aviation Act [see section 45302(b) of this title].

''(e) DEFINITIONS.—For purposes of this subtitle [subtitle E (§§ 7201–7214) of title VII of Pub. L. 100–690, see Tables for classification]—

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

''(2) AIRCRAFT.—The term 'aircraft' has the meaning such term has under section 101 of the Federal Aviation Act of 1958 [see section 40102 of this title].''

INFORMATION COORDINATION

Pub. L. 100–690, title VII, § 7210, Nov. 18, 1988, 102 Stat. 4432, provided that: ''Not later than 180 days after the date of the enactment of this subtitle [Nov. 18, 1988] and annually thereafter during the 3-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

''(1) The progress made in establishing a process for provision of informational assistance by such Administration to officials of Federal, State, and local law enforcement agencies.

''(2) The progress made in establishing a process for effectively pursuing suspensions and revocations of certificates of registration and airman certificates in accordance with the amendments made to the Federal Aviation Act of 1958 by the Aviation Drug-Trafficking Control Act [Pub. L. 98–499, see Tables for classification], section 3401 of the Anti-Drug Abuse Act of 1986 [Pub. L. 99–570], and this subtitle [subtitle E (§§ 7201–7214) of title VII of Pub. L. 100–690].

''(3) The efforts of such Administration in assessing and defining the appropriate relationship of such Administration's informational assistance resources (including the El Paso Intelligence Center and the Law Enforcement Assistance Unit of the Aeronautical Center of such Administration).

''(4) The progress made in issuing guidelines on (A) the reporting of aviation sensitive drug-related information, and (B) the development, in coordination with the Drug Enforcement Administration of the Department of Justice and the United States Customs Service, of training and educational policies to assist employees of such Administration to better understand (i) the trafficking of controlled substances (as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]), and (ii) the role of such Administration with respect to such trafficking.

''(5) The progress made in improving and expanding such Administration's role in the El Paso Intelligence Center.''

APPLICABILITY OF PAPERWORK REDUCTION ACT

Pub. L. 100–690, title VII, § 7211(b), Nov. 18, 1988, 102 Stat. 4433, provided that: ''No information collection requests necessary to carry out the objectives of this subtitle [subtitle E (§§ 7201–7214) of title VI of Pub. L. 100–690, see Tables for classification] (including the

amendments made by this subtitle) shall be subject to or affect, directly or indirectly, the annual information collection budget goals established for the Federal Aviation Administration and the Department of Transportation under chapter 35 of title 44, United States Code.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45302 of this title.

§ 44112. Limitation of liability

(a) DEFINITIONS.—In this section—

(1) ''lessor'' means a person leasing for at least 30 days a civil aircraft, aircraft engine, or propeller.

(2) ''owner'' means a person that owns a civil aircraft, aircraft engine, or propeller.

(3) ''secured party'' means a person having a security interest in, or security title to, a civil aircraft, aircraft engine, or propeller under a conditional sales contract, equipment trust contract, chattel or corporate mortgage, or similar instrument.

(b) LIABILITY.—A lessor, owner, or secured party is liable for personal injury, death, or property loss or damage on land or water only when a civil aircraft, aircraft engine, or propeller is in the actual possession or control of the lessor, owner, or secured party, and the personal injury, death, or property loss or damage occurs because of—

(1) the aircraft, engine, or propeller; or

(2) the flight of, or an object falling from, the aircraft, engine, or propeller.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1167.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44112	49 App.:1404.	Aug. 23, 1958, Pub. L. 85–726, § 504, 72 Stat. 774; restated July 8, 1959, Pub. L. 86–81, § 2, 73 Stat. 180.

In subsection (a), clauses (1) and (3) are derived from 49 App.:1404 (2d–57th words). Clause (2) is added for clarity. In clause (1), the words ''bona fide'' are omitted as surplus. In clause (3), the word ''nature'' is omitted as surplus.

In subsection (b), before clause (1), the words ''personal injury, death'' are substituted for ''any injury to or death of persons'', and the words ''on land or water'' are substituted for ''on the surface of the earth (whether on land or water)'', to eliminate unnecessary words. In clause (2), the words ''ascent, descent, or'' and ''dropping or'' are omitted as surplus.

CHAPTER 443—INSURANCE

Sec.
44301. Definitions.
44302. General authority.
44303. Coverage.
44304. Reinsurance.
44305. Insuring United States Government property.
44306. Premiums and limitations on coverage and claims.
44307. Revolving fund.
44308. Administrative.
44309. Civil actions.
44310. Ending effective date.

§ 44301. Definitions

In this chapter—

(1) ''American aircraft'' means—

(A) a civil aircraft of the United States; and

(B) an aircraft owned or chartered by, or made available to—

(i) the United States Government; or

(ii) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of the State, territory, or possession.

(2) ''insurance carrier'' means a person authorized to do aviation insurance business in a State, including a mutual or stock insurance company and a reciprocal insurance association.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1168.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44301	49 App.:1531.	Aug. 23, 1958, Pub. L. 85–726, § 1301, 72 Stat. 800; restated Nov. 9, 1977, Pub. L. 95–163, § 1(a), 91 Stat. 1278.

In this section, the text of 49 App.:1531(3) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (1)(B)(i), the words ''United States Government'' are substituted for ''United States or any department or agency thereof'' for consistency in the revised title and with other titles of the United States Code.

In clause (1)(B)(ii), the words ''the government of'' are omitted for consistency in the revised title.

In clause (2), the words ''insurance company'' are omitted as being included in ''insurance carrier''. The words ''means a person'' are added because they are inclusive. The words ''group or association'' are omitted as being included in ''person''. The word ''State'' is substituted for ''State of the United States'' to eliminate unnecessary words.

§ 44302. General authority

(a) INSURANCE AND REINSURANCE.—(1) Subject to subsection (b) of this section and section 44305(a) of this title, the Secretary of Transportation may provide insurance and reinsurance against loss or damage arising out of any risk from the operation of an American aircraft or foreign-flag aircraft—

(A) in foreign air commerce; or

(B) between at least 2 places, all of which are outside the United States.

(2) An aircraft may be insured or reinsured for not more than its reasonable value as determined by the Secretary. Insurance or reinsurance may be provided only when the Secretary decides that the insurance cannot be obtained on reasonable terms from an insurance carrier.

(b) PRESIDENTIAL APPROVAL.—The Secretary may provide insurance or reinsurance under subsection (a) of this section only with the approval of the President. The President may approve the insurance or reinsurance only after deciding that the continued operation of the American aircraft or foreign-flag aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government.

(c) CONSULTATION.—The President may require the Secretary to consult with interested depart-

ments, agencies, and instrumentalities of the Government before providing insurance or reinsurance under this chapter.

(d) ADDITIONAL INSURANCE.—With the approval of the Secretary, a person having an insurable interest in an aircraft may insure with other underwriters in an amount that is more than the amount insured with the Secretary. However, the Secretary may not benefit from the additional insurance. This subsection does not prevent the Secretary from making contracts of coinsurance.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1168.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44302(a)	49 App.:1532(a)(1) (less words between 1st and 3d commas), (3).	Aug. 23, 1958, Pub. L. 85–726, §1302(a), 72 Stat. 801; restated Nov. 9, 1977, Pub. L. 95–163, §2, 91 Stat. 1278; Oct. 31, 1992, Pub. L. 102–581, §401(b), 106 Stat. 4897.
	49 App.:1537(a) (last sentence words between 2d and 3d commas).	Aug. 23, 1958, Pub. L. 85–726, §1307(a) (last sentence words between 2d and 3d commas), 72 Stat. 804; Oct. 4, 1984, Pub. L. 98–443, §9(b), 98 Stat. 1706.
44302(b)	49 App.:1532(a)(1) (words between 1st and 2d commas), (2).	
44302(c)	49 App.:1532(a)(1) (words between 2d and 3d commas).	
44302(d)	49 App.:1541.	Aug. 23, 1958, Pub. L. 85–726, §1311, 72 Stat. 806.

In subsection (a)(1), before clause (A), the words ''Subject to subsection (b) of this section'' are added, and the words ''American aircraft or foreign-flag aircraft'' are substituted for ''aircraft'' in 49 App.:1532(a), for clarity. The words ''in the manner and to the extent provided by this subchapter'' are omitted as unnecessary. The words ''Insurance shall be issued under this subchapter only to cover any risk from the operation of an aircraft . . . such aircraft is'' are omitted because of the restatement. In clause (B), the word ''places'' is substituted for ''points'' for consistency in the revised title.

In subsection (a)(2), the words ''An aircraft may be insured or reinsured for not more than'' are substituted for ''and such stated amount shall not exceed'' in 49 App.:1537(a) for clarity and because of the restatement. The words ''its reasonable value'' are substituted for ''an amount . . . to represent the fair and reasonable value of the aircraft'' to eliminate unnecessary words. The words ''Insurance or reinsurance may be provided only'' are added because of the restatement. The word ''conditions'' is omitted as being included in ''terms''.

In subsection (b), the words ''The Secretary may provide insurance or reinsurance under subsection (a) of this section only with the approval of the President'' are substituted for ''with the approval of the President'' for clarity and because of the restatement. The words ''The President may'' are substituted for ''The President shall'' because the authority of the President is discretionary.

In subsection (c), the words ''the Secretary to consult . . . before providing insurance or reinsurance under this chapter'' are substituted for ''and after such consultation . . . as'' because of the restatement. The words ''departments, agencies, and instrumentalities'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (d), the words ''However, the Secretary may not benefit from the additional insurance'' are substituted for ''in that event, the Secretary shall not be entitled to the benefit of such insurance'' for clarity.

PROVISION OF AVIATION INSURANCE COVERAGE FOR COMMERCIAL AIR CARRIER SERVICE

Determination of President of the United States, No. 94–39, July 26, 1994, 59 F.R. 38551, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States, including 3 U.S.C. 301 and 49 U.S.C. 44302, I hereby:

(1) determine that continuation of authorized humanitarian relief air services to Haiti is necessary to carry out the foreign policy of the United States;

(2) approve provision by the Secretary of Transportation of insurance against loss or damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided in 49 U.S.C. 44301–44310, whenever he determines that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to conduct an insurance business in a State of the United States;

(3) delegate to the Secretary of Transportation, in consultation with the Secretary of State, the authority vested in me by 49 U.S.C. 44302(b), for purposes of responding to the current crisis in Haiti; and

(4) delegate to the Secretary of Transportation, in consultation with the Secretary of State, the authority vested in me by 49 U.S.C. 44306(b) for purposes of responding to the current crisis in Haiti.

The Secretary of Transportation is directed to bring this determination immediately to the attention of all air carriers within the meaning of 49 U.S.C. 40102(a)(2), and to arrange for its publication in the Federal Register.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44303 of this title.

§ 44303. Coverage

The Secretary of Transportation may provide insurance and reinsurance authorized under section 44302 of this title for the following:

(1) an American aircraft or foreign-flag aircraft engaged in aircraft operations the President decides are necessary to carry out the foreign policy of the United States Government.

(2) property transported or to be transported on aircraft referred to in clause (1) of this section, including—

(A) shipments by express or registered mail;

(B) property owned by citizens or residents of the United States;

(C) property—

(i) imported to, or exported from, the United States; and

(ii) bought or sold by a citizen or resident of the United States under a contract putting the risk of loss or obligation to provide insurance against risk of loss on the citizen or resident; and

(D) property transported between—

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

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

(iii) 2 places in the same territory or possession of the United States.

(3) the personal effects and baggage of officers and members of the crew of an aircraft re-

ferred to in clause (1) of this section and of other individuals employed or transported on that aircraft.

(4) officers and members of the crew of an aircraft referred to in clause (1) of this section and other individuals employed or transported on that aircraft against loss of life, injury, or detention.

(5) statutory or contractual obligations or other liabilities, customarily covered by insurance, of an aircraft referred to in clause (1) of this section or of the owner or operator of that aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1169.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44303	49 App.:1533.	Aug. 23, 1958, Pub. L. 85–726, § 1303, 72 Stat. 801; restated Nov. 9, 1977, Pub. L. 95–163, § 3, 91 Stat. 1279.

In this section, before clause (1), the words ''persons, property, or interest'' are omitted as unnecessary. In clause (2), the word ''property'' is substituted for ''Cargoes'' and ''air cargoes'' for consistency in the revised title. In clause (2)(B) and (C), the words ''its territories, or possessions'' are omitted as unnecessary because of the definition of ''United States'' in section 40102(a) of the revised title. In clause (2)(C)(ii), the word ''contract'' is substituted for ''contracts of sale or purchase'', and the words ''putting . . . on'' are substituted for ''is assumed by or falls upon'', to eliminate unnecessary words. In clause (2)(D), the word ''place'' is substituted for ''point'' for consistency in the revised title. In subclause (i), the words ''a State or the District of Columbia'' are substituted for ''the United States'' for clarity and consistency because the definition of ''United States'' in section 40102(a) of the revised title is too broad for the context of the clause. The definition in section 40102(a) includes territories and possession and would therefore overlap with subclauses (ii) and (iii). In subclause (iii), the words ''2 places in the same territory or possession of the United States'' are substituted for ''any point in any such territory or possession and any other point in the same territory or possession'' for clarity. In clauses (3) and (4), the word ''individuals'' is substituted for ''persons'' as being more appropriate. The words ''captains'' and ''pilots'' are omitted as being included in ''officers and members of the crew''.

§ 44304. Reinsurance

(a) GENERAL AUTHORITY.—To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may reinsure any part of the insurance provided by an insurance carrier. The Secretary may reinsure with, transfer to, or transfer back to, the carrier any insurance or reinsurance provided by the Secretary under this chapter.

(b) PREMIUM LEVELS.—The Secretary may provide reinsurance at premiums not less than, or obtain reinsurance at premiums not higher than, the premiums the Secretary establishes on similar risks or the premiums the insurance carrier charges for the insurance to be reinsured by the Secretary, whichever is most advantageous to the Secretary. However, the Secretary may make allowances to the insurance carrier for expenses incurred in providing services and facilities that the Secretary considers good business practice, except for payments by the carrier for the stimulation or solicitation of insurance business.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1169.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44304(a)	49 App.:1535(a).	Aug. 23, 1958, Pub. L. 85–726, § 1305, 72 Stat. 802; Nov. 9, 1977, Pub. L. 95–163, § 4(a), 91 Stat. 1279.
44304(b)	49 App.:1535(b).	

In subsection (a), the words ''may reinsure any part of the insurance provided by an insurance carrier'' are substituted for ''may reinsure, in whole or in part, any company authorized to do an insurance business'' for clarity and consistency with source provisions restated in this subchapter and the definition of ''insurance carrier'' in section 44301 of the revised title. The words ''transfer to, or transfer back to'' are substituted for ''cede or retrocede to'' for clarity.

In subsection (b), the word ''same'' is omitted as being included in ''similar''. The words ''on account of the cost of'' are omitted as surplus. The word ''providing'' is substituted for ''rendered'' and ''furnished'' because it is inclusive. The words ''except for'' are substituted for ''but such allowance to the carrier shall not provide for'' to eliminate unnecessary words.

§ 44305. Insuring United States Government property

(a) GENERAL.—With the approval of the President, a department, agency, or instrumentality of the United States Government may obtain—

(1) insurance under this chapter, including insurance for risks from operating an aircraft in intrastate or interstate air commerce, but not including insurance on valuables subject to sections 1 and 2 of the Government Losses in Shipment Act (40 U.S.C. 721, 722); and

(2) insurance for risks arising from providing goods or services directly related to and necessary for operating an aircraft covered by insurance obtained under clause (1) of this subsection if the aircraft is operated—

(A) in carrying out a contract of the department, agency, or instrumentality; or

(B) to transport military forces or materiel on behalf of the United States under an agreement between the Government and the government of a foreign country.

(b) PREMIUM WAIVERS AND INDEMNIFICATION.—With the approval required under subsection (a) of this section, the Secretary of Transportation may provide the insurance without premium at the request of the Secretary of Defense or the head of a department, agency, or instrumentality designated by the President when the Secretary of Defense or the designated head agrees to indemnify the Secretary of Transportation against all losses covered by the insurance. The Secretary of Defense and any designated head may make indemnity agreements with the Secretary of Transportation under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1170.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44305	49 App.:1534.	Aug. 23, 1958, Pub. L. 85–726, § 1304, 72 Stat. 802; Oct. 31, 1992, Pub. L. 102–581, § 401(a), 106 Stat. 4897.

In this section, the words ''a department, agency, or instrumentality'' are substituted for ''Any department or agency'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), the words ''obtain insurance under this chapter'' are substituted for ''procure from the Secretary any of the insurance provided under this subchapter'' to eliminate unnecessary words. The words ''overseas air commerce'' are omitted for the reasons given in the revision note for section 40101.

In subsection (b), the words ''or the head of a department, agency, or instrumentality designated by the President'' are substituted for ''and such other agencies as the President may prescribe'' as being more precise and for consistency in the revised title. The words ''when the Secretary of Defense or the designated head agrees'' are substituted for ''in consideration of'' for clarity. The words ''any designated head'' are substituted for ''the agreement of . . . such agency'' and ''such other agencies'' for clarity and because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44302 of this title.

§ 44306. Premiums and limitations on coverage and claims

(a) PREMIUMS BASED ON RISK.—To the extent practical, the premium charged for insurance or reinsurance under this chapter shall be based on consideration of the risk involved.

(b) TIME LIMITS.—The Secretary of Transportation may provide insurance and reinsurance under this chapter for a period of not more than 60 days. The period may be extended for additional periods of not more than 60 days each only if the President decides, before each additional period, that the continued operation of the aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government.

(c) MAXIMUM INSURED AMOUNT.—The insurance policy on an aircraft insured or reinsured under this chapter shall specify a stated amount that is not more than the value of the aircraft, as determined by the Secretary. A claim under the policy may not be paid for more than that stated amount.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1170.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44306(a)	49 App.:1532(b).	Aug. 23, 1958, Pub. L. 85–726, § 1302(b), (c), 72 Stat. 801; restated Nov. 9, 1977, Pub. L. 95–163, § 2, 91 Stat. 1279.
44306(b)	49 App.:1532(c).	
44306(c)	49 App.:1537(a) (last sentence less words between 2d and 3d commas).	Aug. 23, 1958, Pub. L. 85–726, § 1307(a) (last sentence less words between 2d and 3d commas), 72 Stat. 804; Oct. 4, 1984, Pub. L. 98–443, § 9(b), 98 Stat. 1706.

In subsection (a), the words ''To the extent'' are substituted for ''insofar as'' for consistency.

In subsection (b), the word ''initial'' is omitted as surplus. The words ''The period'' are substituted for ''Such insurance or reinsurance'', and the words ''the President decides . . . that the continued operation of the aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government'' are substituted for ''the President makes the same determination with respect to such extension as he is required to make under paragraph (2) of subsection (a) of this section for the initial provision of such insurance or reinsurance'', for clarity.

In subsection (c), the words ''or reinsured'' are added for consistency. The words ''to be paid in the event of total loss'' are omitted as unnecessary because of the last sentence. The words ''A claim under the policy may not be paid for more than that stated amount'' are substituted for ''the amount of any claim which is compromised, settled, adjusted, or paid shall in no event exceed such stated amount'' to eliminate unnecessary words.

§ 44307. Revolving fund

(a) EXISTENCE, DISBURSEMENTS, APPROPRIATIONS, AND DEPOSITS.—(1) There is a revolving fund in the Treasury. The Secretary of the Treasury shall disburse from the fund payments to carry out this chapter.

(2) Necessary amounts to carry out this chapter may be appropriated to the fund. The amounts appropriated and other amounts received in carrying out this chapter shall be deposited in the fund.

(b) INVESTMENT.—On request of the Secretary of Transportation, the Secretary of the Treasury may invest any part of the amounts in the revolving fund in interest-bearing securities of the United States Government. The interest on, and the proceeds from the sale or redemption of, the securities shall be deposited in the fund.

(c) EXCESS AMOUNTS.—The balance in the revolving fund in excess of an amount the Secretary of Transportation determines is necessary for the requirements of the fund and for reasonable reserves to maintain the solvency of the fund shall be deposited at least annually in the Treasury as miscellaneous receipts.

(d) EXPENSES.—The Secretary of Transportation shall deposit annually an amount in the Treasury as miscellaneous receipts to cover the expenses the Government incurs when the Secretary of Transportation uses appropriated amounts in carrying out this chapter. The deposited amount shall equal an amount determined by multiplying the average monthly balance of appropriated amounts retained in the revolving fund by a percentage that is at least the current average rate payable on marketable obligations of the Government. The Secretary of the Treasury shall determine annually in advance the percentage applied.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1170.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44307(a)	49 App.:1536(a), (b).	Aug. 23, 1958, Pub. L. 85–726, § 1306(a)–(d), 72 Stat. 803.
44307(b)	49 App.:1536(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1306(f); added Aug. 9, 1975, Pub. L. 94–90, § 1(a), 89 Stat. 439.
44307(c)	49 App.:1536(c).	
44307(d)	49 App.:1536(d).	

In subsection (a)(1), the first sentence is added for clarity. The last sentence is substituted for 49 App.:1536(a) (last sentence) to eliminate unnecessary words and for consistency in the revised title.

In subsection (a)(2), the words ''The amounts appropriated and other amounts received in carrying out this chapter'' are substituted for ''Moneys appropriated by Congress to carry out the provisions of this subchapter and all moneys received from premiums, salvage, or other recoveries and all receipts in connection with this subchapter'' to eliminate unnecessary words.

In subsection (b), the words ''any part'' are substituted for ''all or any part'' to eliminate unnecessary words. The words ''held in the revolving fund'' are omitted as surplus. The words ''deposited in'' are substituted for ''credited to and form a part of'' for consistency.

In subsection (d), the words ''The Secretary of Transportation shall deposit annually an amount in the Treasury'' are substituted for ''Annual payments shall be made by the Secretary to the Treasury of the United States'', the words ''The deposited amount shall equal an amount determined by multiplying'' are substituted for ''These payments shall be computed by applying to'', and the words ''a percentage that is at least the current average rate payable on marketable obligations of the Government'' are substituted for ''a percentage'' and ''Such percentage shall not be less than the current average rate which the Treasury pays on its marketable obligations'', for clarity.

§ 44308. Administrative

(a) COMMERCIAL PRACTICES.—The Secretary of Transportation may carry out this chapter consistent with commercial practices of the aviation insurance business.

(b) ISSUANCE OF POLICIES AND DISPOSITION OF CLAIMS.—(1) The Secretary may issue insurance policies to carry out this chapter. The Secretary may prescribe the forms, amounts insured under the policies, and premiums charged. The Secretary may change an amount of insurance or a premium for an existing policy only with the consent of the insured.

(2) For a claim under insurance authorized by this chapter, the Secretary may—

(A) settle and pay the claim made for or against the United States Government; and

(B) pay the amount of a judgment entered against the Government.

(c) UNDERWRITING AGENT.—(1) The Secretary may, and when practical shall, employ an insurance carrier or group of insurance carriers to act as an underwriting agent. The Secretary may use the agent to adjust claims under this chapter, but claims may be paid only when approved by the Secretary.

(2) The Secretary may pay reasonable compensation to an underwriting agent for servicing insurance the agent writes for the Secretary. Compensation may include payment for reasonable expenses incurred by the agent but may not include a payment by the agent for stimulation or solicitation of insurance business.

(3) Except as provided by this subsection, the Secretary may not pay an insurance broker or other person acting in a similar capacity any consideration for arranging insurance when the Secretary directly insures any part of the risk.

(d) BUDGET.—The Secretary shall submit annually a budget program for carrying out this chapter as provided for wholly owned Government corporations under chapter 91 of title 31.

(e) ACCOUNTS.—The Secretary shall maintain a set of accounts. The Comptroller General shall audit those accounts under chapter 35 of title 31. Notwithstanding chapter 35, the Comptroller General shall allow credit for expenditures under this chapter made consistent with commercial practices in the aviation insurance business when shown to be necessary because of the business activities authorized by this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1171.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44308(a)	49 App.:1537(c) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1307(a) (1st sentence), (c), (d), 72 Stat. 803, 804.
44308(b)(1) ..	49 App.:1537(a) (1st sentence words before 6th comma).	
	49 App.:1537(b).	Aug. 23, 1958, Pub. L. 85–726, § 1307(b), 72 Stat. 804; Nov. 9, 1977, Pub. L. 95–163, § 5(a), 91 Stat. 1280.
44308(b)(2) ..	49 App.:1537(a) (1st sentence words after 6th comma).	
44308(c)(1) ..	49 App.:1537(d) (1st, 3d sentences).	
44308(c)(2) ..	49 App.:1537(d) (2d, last sentences).	
44308(c)(3) ..	49 App.:1537(c) (last sentence).	
44308(d)	49 App.:1537(f) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1307(f), 72 Stat. 804; Jan. 2, 1975, Pub. L. 93–604, § 702, 88 Stat. 1964.
44308(e)	49 App.:1537(f) (last sentence).	

In subsection (a), the words ''may carry out this chapter'' are substituted for ''in administering this subchapter, may exercise his powers, perform his duties and functions, and make his expenditures'' to eliminate unnecessary words.

In subsection (b)(1), the word ''insurance'' is added for clarity. The words ''rules, and regulations'' are omitted as unnecessary because of 49:322(a). The words ''as he deems proper'' and ''subject to the following provisions of this subsection'' are omitted as surplus. The words ''and change'' and ''fix, adjust, and change'' are omitted as being included in ''prescribe''. The words ''under the policies'' are added for clarity. The word ''charged'' is substituted for ''provided for in this subchapter'' for consistency in this subchapter.

In subsection (b)(2), before clause (A), the words ''the Secretary'' are added because of the restatement. In clause (A), the words ''adjust and . . . losses, compromise and'' are omitted as included in ''settle and pay the claim''. The word ''made'' is substituted for ''whether'' for clarity. In clause (B), the word ''entered'' is substituted for ''rendered'' because it is more appropriate. The words ''in any suit'' are omitted as surplus. The words ''or the amount of any settlement agreed upon'' are omitted as being included in ''settle and pay the claim''.

In subsection (c)(1), the words ''and when practical shall'' are substituted for ''and whenever he finds it practical to do so shall'' to eliminate unnecessary words. The word ''his'' is omitted as surplus. The words ''The Secretary may use'' are substituted for ''may be utilized'' for consistency. The words ''The services of'' are omitted as unnecessary.

In subsection (c)(2), the words ''pay reasonable compensation'' are substituted for ''allow . . . fair and reasonable compensation'' for consistency in the revised title. The words ''an underwriting agent'' are substituted for ''such companies or groups of companies'', and the words ''the agent writes'' are substituted for ''written by such companies or groups of companies as underwriting agent'', for clarity. The word ''payment'' is substituted for ''allowance'' for consistency.

In subsection (c)(3), the words ''intermediary'' and ''fee or other'' are omitted as surplus. The word ''for''

is substituted for ''by virtue of his participation in'' to eliminate unnecessary words.

In subsection (d), the word ''prepare'' is omitted as being included in ''submit''. The words ''for carrying out this chapter'' are substituted for ''in the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter'' for consistency and to eliminate unnecessary words. The words ''under chapter 91 of title 31'' are substituted for ''by the Government Corporation Control Act, as amended (59 Stat. 597; 31 U.S.C. 841)'' in section 1307(f) of the Act of August 23, 1958 (Public Law 85–726, 72 Stat. 804) because of section 4(b) of the Act of September 13, 1982 (Public Law 97–258, 96 Stat. 1067).

In subsection (e), the words ''under chapter 35 of title 31'' are substituted for ''in accordance with the provisions of the Accounting and Auditing Act of 1950'' in section 1307(f) of the Act of August 23, 1958 (Public Law 85–726, 72 Stat. 804) because of section 4(b) of the Act of September 13, 1982 (Public Law 97–258, 96 Stat. 1067). The words ''*Provided*, That . . . the Secretary may exercise the powers conferred in said subchapter, perform the duties and functions'' are omitted as surplus. The words ''Notwithstanding chapter 35'' are added for clarity. The words ''Comptroller General'' are substituted for ''General Accounting Office'' because of 31:702.

§ 44309. Civil actions

(a) DISPUTED LOSSES.—A person may bring a civil action in a district court of the United States against the United States Government when a loss insured under this chapter is in dispute. A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter. To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28 applies to an action under this subsection.

(b) VENUE AND JOINDER.—(1) A civil action under subsection (a) of this section may be brought in the judicial district for the District of Columbia or in the judicial district in which the plaintiff or the agent of the plaintiff resides if the plaintiff resides in the United States. If the plaintiff does not reside in the United States, the action may be brought in the judicial district for the District of Columbia or in the judicial district in which the Attorney General agrees to accept service.

(2) An interested person may be joined as a party to a civil action brought under subsection (a) of this section initially or on motion of either party to the action.

(c) TIME REQUIREMENTS.—When an insurance claim is made under this chapter, the period during which, under section 2401 of title 28, a civil action must be brought under subsection (a) of this section is suspended until 60 days after the Secretary of Transportation denies the claim. The claim is deemed to be administratively denied if the Secretary does not act on the claim not later than 6 months after filing, unless the Secretary makes a different agreement with the claimant when there is good cause for an agreement.

(d) INTERPLEADER.—(1) If the Secretary admits the Government owes money under an insurance claim under this chapter and there is a dispute about the person that is entitled to payment, the Government may bring a civil action of interpleader in a district court of the United States against the persons that may be entitled to payment. The action may be brought in the judicial district for the District of Columbia or in the judicial district in which any party resides.

(2) The district court may order a party not residing or found in the judicial district in which the action is brought to appear in a civil action under this subsection. The order shall be served in a reasonable manner decided by the district court. If the court decides an unknown person might assert a claim under the insurance that is the subject of the action, the court may order service on that person by publication in the Federal Register.

(3) Judgment in a civil action under this subsection discharges the Government from further liability to the parties to the action and to all other persons served by publication under paragraph (2) of this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1172.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44309(a)	49 App.:1540 (1st sentence less 19th–70th words, 3d sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1310, 72 Stat. 805.
44309(b)(1) ..	49 App.:1540 (1st sentence 19th–70th words, 2d sentence).	
44309(b)(2) ..	49 App.:1540 (4th sentence).	
44309(c)	49 App.:1540 (last sentence).	
44309(d)	49 App.:1540 (5th–8th sentences).	

In subsection (a), the words ''A person may bring'' are substituted for ''may be maintained'' for clarity. The words ''a civil action'' are substituted for ''suit'' because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''A civil action . . . (except the action authorized by this subsection) may not be brought'' are substituted for ''and this remedy shall be exclusive of any other action'', and the words ''involving the'' are substituted for ''by reason of'', for clarity. The words ''carrying out this chapter'' are substituted for ''employed or retained under this subchapter'', and the words ''in an action'' are substituted for ''for suits in the district courts'', for consistency. The words ''applies to'' are substituted for ''shall otherwise be the same as that provided for'' to eliminate unnecessary words. The words ''an action under this subsection'' are substituted for ''such suits'' for consistency.

In subsection (b)(1), the words ''A civil action under subsection (a) of this section may be brought'' are added for clarity. The words ''the plaintiff or the agent of the plaintiff resides'' are substituted for ''the claimant or his agent resides'' for consistency in the revised title. The words ''if the plaintiff resides in the United States'' are added for clarity. The words ''notwithstanding the amount of the claim'' are omitted as obsolete because jurisdiction under 28:1331 no longer depends on the amount of the claim. The words ''and any provision of existing law as to the jurisdiction of United States district courts'' are omitted as obsolete.

In subsection (b)(2), the words ''interested person'' are substituted for ''All persons having or claiming or who might have an interest in such insurance'' to eliminate unnecessary words. The word ''either'' is omitted as surplus. The words ''to a civil action brought under subsection (a) of this section'' are added for clarity.

In subsection (c), the words ''during which, under section 2401 of title 28, a civil action must be brought under subsection (a) of this section'' are substituted for

''within which suits may be commenced contained in section 2401 of title 28 providing for bringing of suits against the United States'' for clarity. The words ''from such time of filing'' are omitted as surplus. The words ''60 days after the Secretary of Transportation denies the claim'' are substituted for ''the claim shall have been administratively denied by the Secretary and for sixty days thereafter'' for clarity.

In subsection (d)(1), the words ''a civil action of interpleader'' are substituted for ''an action in the nature of a bill of interpleader'' because of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''persons that may be entitled to payment'' are substituted for ''such parties'' for clarity.

In subsection (d)(2), the words ''in which the action is brought'' are added for clarity. The words ''The order shall be'' are added because of the restatement. The words ''the court may order service on that person'' are substituted for ''it may direct service upon such persons unknown'' as being more precise.

In subsection (d)(3), the words ''in a civil action under this subsection'' are substituted for ''in any such suit'' for clarity.

§ 44310. Ending effective date

The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter is not effective after September 30, 1997.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1173.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44310	49 App.:1542.	Aug. 23, 1958, Pub. L. 85–726, § 1312, 72 Stat. 806; July 20, 1961, Pub. L. 87–89, 75 Stat. 210; June 13, 1966, Pub. L. 89–447, 80 Stat. 199; Sept. 8, 1970, Pub. L. 91–399, 84 Stat. 837; Aug. 9, 1975, Pub. L. 94–90, § 2, 89 Stat. 439; July 31, 1976, Pub. L. 94–374, 90 Stat. 1065; Nov. 9, 1977, Pub. L. 95–163, § 6, 91 Stat. 1280; Oct. 14, 1982, Pub. L. 97–309, § 3, 96 Stat. 1453; Oct. 30, 1987, Pub. L. 100–148, 101 Stat. 878; Oct. 31, 1992, Pub. L. 102–581, § 402, 106 Stat. 4897.

The words ''is not effective after'' are substituted for ''shall expire at the termination of'' for clarity and consistency in the revised title.

CONTINUATION OF AVIATION INSURANCE LAWS

Pub. L. 102–581, title IV, § 404, Oct. 31, 1992, 106 Stat. 4898, provided that: ''Notwithstanding any other provision of law, the provisions of title XIII of the Federal Aviation Act of 1958 [now this chapter] and all insurance policies issued by the Secretary of Transportation under such title, as in effect on September 30, 1992, shall be treated as having continued in effect until the date of the enactment of this Act [Oct. 31, 1992].''

CHAPTER 445—FACILITIES, PERSONNEL, AND RESEARCH

Sec.
44501. Plans and policy.
44502. General facilities and personnel authority.
44503. Reducing nonessential expenditures.
44504. Improved aircraft, aircraft engines, propellers, and appliances.
44505. Systems, procedures, facilities, and devices.
44506. Air traffic controllers.
44507. Civil aeromedical research.
44508. Research advisory committee.
44509. Demonstration projects.
44510. Airway science curriculum grants.
44511. Aviation research grants.
44512. Catastrophic failure prevention research grants.
44513. Regional centers of air transportation excellence.
44514. Flight service stations.
44515. Advanced training facilities for maintenance technicians for air carrier aircraft.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 46316 of this title.

§ 44501. Plans and policy

(a) LONG RANGE PLANS AND POLICY REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall make long range plans and policy for the orderly development and use of the navigable airspace, and the orderly development and location of air navigation facilities, that will best meet the needs of, and serve the interests of, civil aeronautics and the national defense, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern.

(b) AIRWAY CAPITAL INVESTMENT PLAN.—The Administrator of the Federal Aviation Administration shall review, revise, and publish a national airways system plan, known as the Airway Capital Investment Plan, before the beginning of each fiscal year. The plan shall set forth—

(1) for a 10-year period, the research, engineering, and development programs and the facilities and equipment that the Administrator considers necessary for a system of airways, air traffic services, and navigation aids that will—

(A) meet the forecasted needs of civil aeronautics;

(B) meet the requirements that the Secretary of Defense establishes for the support of the national defense; and

(C) provide the highest degree of safety in air commerce;

(2) for the first and 2d years of the plan, detailed annual estimates of—

(A) the number, type, location, and cost of acquiring, operating, and maintaining required facilities and services;

(B) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency; and

(C) personnel levels required for the activities described in subclauses (A) and (B) of this clause;

(3) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major program for the 3-year period, and additional major research programs, acquisition of systems and facilities, and changes in personnel levels that may be required to meet long range objectives and that may have significant impact on future funding requirements; and

(4) a 10-year investment plan that considers long range objectives that the Administrator considers necessary to—

(A) ensure that safety is given the highest priority in providing for a safe and efficient airway system; and

(B) meet the current and projected growth of aviation and the requirements of interstate commerce, the United States Postal Service, and the national defense.

(c) NATIONAL AVIATION RESEARCH PLAN.—(1) The Administrator of the Federal Aviation Administration shall prepare and publish annually a national aviation research plan and submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. The plan shall be submitted not later than the date of submission of the President's budget to Congress.

(2)(A) The plan shall describe, for a 15-year period, the research, engineering, and development that the Administrator of the Federal Aviation Administration considers necessary—

(i) to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics; and

(ii) to provide the highest degree of safety in air travel.

(B) The plan shall cover all research conducted under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title and shall identify complementary and coordinated research efforts that the Administrator of the National Aeronautics and Space Administration conducts with amounts specifically appropriated to the Administration. For projects for which the Administrator of the Federal Aviation Administration anticipates requesting an appropriation, the plan shall include—

(i) for the first 2 years of the plan, detailed annual estimates of the schedule, cost, and work-force levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

(ii) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project and any additional major research projects that may be required to meet long-term objectives and that may have significant impact on future appropriations requirements;

(iii) for the 6th and subsequent years of the plan, the long-term objectives the Administrator of the Federal Aviation Administration considers necessary to ensure that aviation safety will be given the highest priority; and

(iv) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator of the Federal Aviation Administration, including any new technologies developed.

(3) Subject to section 40119(b) of this title and regulations prescribed under section 40119(b), the Administrator of the Federal Aviation Administration shall submit to the committees named in paragraph (1) of this subsection an annual report on the accomplishments of the research completed during the prior fiscal year. The report shall be submitted with the plan required under paragraph (1) and be organized to allow comparison with the plan in effect for the prior fiscal year.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1173.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44501(a)	49 App.:1353(a).	Aug. 23, 1958, Pub. L. 85–726, § 312(a), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44501(b)	49 App.:2203(b).	Sept. 3, 1982, Pub. L. 97–248, § 504(b), 96 Stat. 675; Nov. 5, 1990, Pub. L. 101–508, § 9105(a), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 114, 106 Stat. 4881.
44501(c)	49 App.:1353(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(d); added Nov. 3, 1988, Pub. L. 100–591, § 4(a), 102 Stat. 3011.

In subsection (a), the word ''Administrator'' in section 312(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g). The words ''air navigation facilities'' are substituted for ''landing areas, Federal airways, radar installations and all other aids and facilities for air navigation'' because of the definition of ''air navigation facility'' in section 40102(a) of the revised title. The words ''the armed forces'' are substituted for ''military agencies'' because of 10:101.

In subsection (b), before clause (1), the words ''the requirements of'' are omitted as surplus. The text of 49 App.:2203(b) (1st sentence) is omitted as executed. The words ''thereafter'' and ''For fiscal year 1991 and thereafter'' are omitted as obsolete. In clauses (2)(C) and (3), the word ''personnel'' is substituted for ''manpower'' for consistency in the revised title. In clause (2)(C), the word ''all'' is omitted as surplus.

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

In subsection (d)(1), the words ''review, revise'' are omitted as surplus. The word ''annually'' is substituted for ''for fiscal year 1990, and for each fiscal year thereafter'' to eliminate obsolete language.

In subsection (d)(2)(B), before clause (i), the words ''an appropriation'' are substituted for ''funding'', and in clause (ii), the word ''appropriations'' is substituted for ''funding'', for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (d)(3), the words ''beginning with the date of transmission of the first aviation research plan as required by paragraph (1)'' are omitted as obsolete.

CHANGE OF NAME

Committee on Science, Space, and Technology of House of Representatives changed to Committee on Science of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44938, 48101 of this title.

§ 44502. General facilities and personnel authority

(a) GENERAL AUTHORITY.—(1) The Administrator of the Federal Aviation Administration may—

(A) acquire, establish, improve, operate, and maintain air navigation facilities; and

(B) provide facilities and personnel to regulate and protect air traffic.

(2) The cost of site preparation work associated with acquiring, establishing, or improving

an air navigation facility under paragraph (1)(A) of this subsection shall be charged to amounts available for that purpose appropriated under section 48101(a) of this title. The Secretary of Transportation may make an agreement with an airport owner or sponsor (as defined in section 47102 of this title) so that the owner or sponsor will provide the work and be paid or reimbursed by the Secretary from the appropriated amounts.

(3) The Secretary of Transportation may authorize a department, agency, or instrumentality of the United States Government to carry out any duty or power under this subsection with the consent of the head of the department, agency, or instrumentality.

(4) PURCHASE OF INSTRUMENT LANDING SYSTEM.—

(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall purchase precision approach instrument landing system equipment for installation at airports on an expedited basis.

(B) AUTHORIZATION.—No less than $30,000,000 of the amounts appropriated under section 48101(a) for each of fiscal years 1995 and 1996 shall be used for the purpose of carrying out this paragraph, including acquisition, site preparation work, installation, and related expenditures.

(b) CERTIFICATION OF NECESSITY.—Except for Government money expended under this part or for a military purpose, Government money may be expended to acquire, establish, construct, operate, repair, alter, or maintain an air navigation facility only if the Administrator of the Federal Aviation Administration certifies in writing that the facility is reasonably necessary for use in air commerce or for the national defense. An interested person may apply for a certificate for a facility to be acquired, established, constructed, operated, repaired, altered, or maintained by or for the person.

(c) ENSURING CONFORMITY WITH PLANS AND POLICIES.—(1) To ensure that[1] conformity with plans and policies for, and allocation of, airspace by the Administrator of the Federal Aviation Administration under section 40103(b)(1) of this title, a military airport, military landing area, or missile or rocket site may be acquired, established, or constructed, or a runway may be altered substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator of the Federal Aviation Administration may advise the appropriate committees of Congress and interested departments, agencies, and instrumentalities of the Government on the effect of the acquisition, establishment, construction, or alteration on the use of airspace by aircraft. A disagreement between the Administrator of the Federal Aviation Administration and the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration may be appealed to the President for a final decision.

(2) To ensure conformity, an airport or landing area not involving the expenditure of Government money may be established or constructed, or a runway may be altered substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator may provide advice on the effects of the establishment, construction, or alteration on the use of airspace by aircraft.

(d) PUBLIC USE AND EMERGENCY ASSISTANCE.—(1) The head of a department, agency, or instrumentality of the Government having jurisdiction over an air navigation facility owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for public use of the facility.

(2) The head of a department, agency, or instrumentality of the Government having jurisdiction over an airport or emergency landing field owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for assistance, and the sale of fuel, oil, equipment, and supplies, to an aircraft, but only when necessary, because of an emergency, to allow the aircraft to continue to the nearest airport operated by private enterprise. The head of the department, agency, or instrumentality shall provide for the assistance and sale at the prevailing local fair market value as determined by the head of the department, agency, or instrumentality. An amount that the head decides is equal to the cost of the assistance provided and the fuel, oil, equipment, and supplies sold shall be credited to the appropriation from which the cost was paid. The balance shall be credited to miscellaneous receipts.

(e) CONSENT OF CONGRESS.—Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.

(f) TRANSFERS OF INSTRUMENT LANDING SYSTEMS.—An airport may transfer, without consideration, to the Administrator of the Federal Aviation Administration an instrument landing system (and associated approach lighting equipment and runway visual range equipment) that conforms to performance specifications of the Administrator if a Government airport aid program, airport development aid program, or airport improvement project grant was used to assist in purchasing the system. The Administrator shall accept the system and operate and maintain it under criteria of the Administrator.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1175; Pub. L. 103–305, title I, § 120(a), Aug. 23, 1994, 108 Stat. 1581; Pub. L. 103–429, § 6(54), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44502(a)(1) ..	49 App.:1348(b) (1st sentence less cl. (3)).	Aug. 23, 1958, Pub. L. 85–726, § 307(b) (1st sentence less cl. (3), 2d sentence), 72 Stat. 750; Jan. 12, 1983, Pub. L. 97–449, § 4(c), 96 Stat. 2442.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44502(a)(2) ..	49 App.:2205(a)(3).	Sept. 3, 1982, Pub. L. 97–248, § 506(a)(3), 96 Stat. 677; Dec. 30, 1987, Pub. L. 100–223, § 105(a)(1), (g)(1), 101 Stat. 1489, 1494.

[1] So in original. The word ''that'' probably should not appear.

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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44502(a)(3) ..	49 App.:1348(b) (2d sentence).	
44502(b)	49 App.:1349(a) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, §§308(a) (1st, 2d sentences), (b), 309, 1107, 72 Stat. 750, 751, 798.
	49 App.:1655(c)(1).	
44502(c)(1) ..	49 App.:1349(b).	
	49 App.:1655(c)(1).	
44502(c)(2) ..	49 App.:1350.	
	49 App.:1655(c)(1).	
44502(d)	49 App.:1507.	
44502(e)	49 App.:1743.	Aug. 11, 1959, Pub. L. 86–154, 73 Stat. 333.
44502(f)	49 App.:2205 (notes).	Nov. 21, 1989, Pub. L. 101–164, §331, 103 Stat. 1097.
		Nov. 5, 1990, Pub. L. 101–516, §324, 104 Stat. 2182.
		Oct. 28, 1991, Pub. L. 102–143, §324, 105 Stat. 943.
		Oct. 6, 1992, Pub. L. 102–388, §324, 106 Stat. 1547.

In this section, the words ''department, agency, or instrumentality of the United States Government'' are substituted for ''Federal department or agency'' in 49 App.:1348(b), ''agencies'' in 49 App.:1349(b), and ''department or other agency'' and ''Government department or other agency'' in 49 App.:1507 for consistency in the revised title and with other titles of the United States Code.

In subsections (a)(1), (b), and (c), the word ''Administrator'' in sections 303(c) (1st sentence), 307(b), 308(a) (1st and 2d sentences) and (b), and 309 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750, 751) is retained on authority of 49:106(g).

In subsection (a)(1), before clause (A), the words ''within the limits of available appropriations made by the Congress'' are omitted as surplus. In clause (A), the words ''wherever necessary'' are omitted as surplus. In clause (B), the word ''necessary'' is omitted as surplus.

In subsection (a)(2), the words ''by the Secretary'' and ''to the Secretary'' are omitted as surplus. The last sentence is substituted for 49 App.:2205(a)(3) (last sentence) to eliminate unnecessary words.

In subsection (a)(3), the words ''subject to such regulations, supervision, and review as he may prescribe'' are omitted because of 49:322(a). The words ''from time to time make such provision as he shall deem appropriate'' are omitted as surplus. The words ''duty or power'' are substituted for ''function'' for consistency in the revised title and with other titles of the Code. The words ''the head of'' are added for clarity and consistency.

In subsection (b), the words ''(whether or not in cooperation with State or other local governmental agencies)'' and ''thereon'' are omitted as surplus. The words ''landing area'' are omitted as being included in the definition of ''air navigation facility'' in section 40102(a) of the revised title. The words ''recommendation and'' are omitted as surplus. The words ''under regulations prescribed by him'' are omitted because of 49:322(a). The word ''proposed'' is omitted as surplus. The word ''acquired'' is added for consistency in this subsection.

In subsection (c)(1), the words ''In order'', ''layout'', and ''In case of . . . the matter'' are omitted as surplus. The words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:133(a). The words ''the Administrator of'' are added because of 42:2472(a).

In subsection (c)(2), the word ''layout'' is omitted as surplus. The words ''pursuant to regulations prescribed by him'' are omitted because of 49:322(a). The words ''the establishment, building, or alteration'' are substituted for ''such construction'' for clarity and consistency in this section.

In subsection (d)(1), the words ''under such conditions and to such extent as . . . deems advisable and'' are omitted as surplus. The word ''provide'' is substituted for ''be made available'', and the words ''of the facility'' are added, for clarity.

In subsection (d)(2), the words ''All amounts received under this subsection shall be covered into the Treasury'' are omitted because of 31:3302(b). The words ''services, shelter . . . other'' and ''if any'' are omitted as surplus.

In subsection (e), the words ''or compact'' are omitted as surplus. The words ''or States'' are omitted because of 1:1. The text of 49 App.:1743 (last sentence) is omitted as surplus.

In subsection (f), the words ''Notwithstanding any other provision of law'' and ''thereafter'' are omitted as surplus.

PUB. L. 103–429

This amends 49:44502(b) to clarify the restatement of 49 App.:1349(a) (1st, 2d sentences) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1175).

AMENDMENTS

1994—Subsec. (a)(4). Pub. L. 103–305 added par. (4).

Subsec. (b). Pub. L. 103–429 inserted ''Government'' before ''money may be expended''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

TRANSFER BY AIRPORTS OF INSTRUMENT LANDING SYSTEMS AND ASSOCIATED EQUIPMENT TO FEDERAL AVIATION ADMINISTRATION

Pub. L. 103–331, title III, §317, Sept. 30, 1994, 108 Stat. 2491, provided that: ''Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to Federal Aviation Administration design and performance specifications, the purchase of which was assisted by a Federal airport aid program, airport development aid program or airport improvement program grant. The Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by the Federal Aviation Administration in accordance with agency criteria.''

COST SAVINGS ASSOCIATED WITH PURCHASE

Section 120(b) of Pub. L. 103–305 provided that: ''Notwithstanding other provisions of law or regulations to the contrary, the Administrator [of the Federal Aviation Administration] shall establish, within 120 days after the date of the enactment of this Act [Aug. 23, 1994], a process through which airport sponsors may take advantage of cost savings associated with the purchase and installation of instrument landing systems, along with associated equipment, under existing or future Federal Aviation Administration contracts. The process established by the Administrator may provide for the direct reimbursement (including administrative costs) of the Administrator by an airport sponsor using grants funds under subchapter I of chapter 471 of subtitle VII of title 49, United States Code, relating to airport improvement, for the ordering of such equipment and installation or for the direct ordering of such equipment and installation by an airport sponsor, using such grant funds, from the suppliers with which the Administrator has contracted.''

GRANDFATHER PROVISION FOR FAA DEMONSTRATION PROJECT

Pub. L. 103–260, title IV, §401, May 26, 1994, 108 Stat. 702, provided that:

''(a) IN GENERAL.—Notwithstanding the termination of the personnel demonstration project for certain Federal Aviation Administration employees on June 17,

1994, pursuant to section 4703 of title 5, United States Code, the Federal Aviation Administration, subject to subsection (d), shall continue to pay quarterly retention allowance payments in accordance with subsection (b) to those employees who are entitled to quarterly retention allowance payments under the demonstration project as of June 16, 1994.

''(b) COMPUTATION RULES.—

''(1) IN GENERAL.—The amount of each quarterly retention allowance payment to which an employee is entitled under subsection (a) shall be the amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994, reduced by that portion of the amount of any increase in the employee's annual rate of basic pay subsequent to June 17, 1994, from any source, which is allocable to the quarter for which the allowance is to be paid (or, if applicable, to that portion of the quarter for which the allowance is to be paid). For purposes of the preceding sentence, the increase in an employee's annual rate of basic pay includes—

''(A) any increase under section 5303 of title 5, United States Code;

''(B) any increase in locality-based comparability payments under section 5304 of such title 5 (except if, or to the extent that, such increase is offset by a reduction of an interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5304 note));

''(C) any establishment or increase in a special rate of pay under section 5305 of such title 5;

''(D) any increase in basic pay pursuant to a promotion under section 5334 of such title 5;

''(E) any periodic step-increase under section 5335 of such title 5;

''(F) any additional step-increase under section 5336 of such title 5; and

''(G) any other increase in annual rate of basic pay under any other provision of law.

''(2) SECTION RULE.—In the case of an employee on leave without pay or other similar status for any part of the quarter prior to June 17, 1994, based on which the amount of the allowance payments for such employee under subsection (a) are computed, the 'amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994' shall, for purposes of paragraph (1), be deemed to be the amount of the allowance which would have been payable to such employee for such quarter under such project had such employee been in pay status throughout such quarter.

''(c) TERMINATION.—An employee's entitlement to quarterly retention allowance payments under this section shall cease when—

''(1) the amount of such allowance is reduced to zero under subsection (b), or

''(2) the employee separates or moves to a position in which the employee would not, prior to June 17, 1994, have been entitled to receive an allowance under the demonstration project,

whichever is earlier.

''(d) SPECIAL PAYMENT RULE.—The Administrator of the Federal Aviation Administration may make payment for the costs incurred under the program established by subsection (a) for the period between June 18, 1994, and September 30, 1994, following the end of the first full pay period that begins on or after October 1, 1994, subject to appropriations made available in fiscal year 1995.

''(e) STUDY OF RECRUITMENT AND RETENTION INCENTIVES.—The Administrator of the Federal Aviation Administration shall conduct a study of impediments that may exist to achieving appropriate air traffic controller staffing levels at hard-to-staff facilities. In conducting such study, the Administrator shall identify and evaluate the extent to which special incentives, of a financial or non-financial nature, could be useful in recruiting or retaining air traffic controllers at such facilities. The Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 180 days after the date of enactment of this Act [May 26, 1994] a report on (1) the results of such study, (2) planned administrative actions, and (3) any recommended legislation.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 48101, 48104, 49101, 49102, 49105 of this title.

§ 44503. Reducing nonessential expenditures

The Secretary of Transportation shall attempt to reduce the capital, operating, maintenance, and administrative costs of the national airport and airway system to the maximum extent practicable consistent with the highest degree of aviation safety. At least annually, the Secretary shall consult with and consider the recommendations of users of the system on ways to reduce nonessential expenditures of the United States Government for aviation. The Secretary shall give particular attention to a recommendation that may reduce, with no adverse effect on safety, future personnel requirements and costs to the Government required to be recovered from user charges.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1176.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44503	49 App.:1704.	July 12, 1976, Pub. L. 94–353, § 25, 90 Stat. 885.

The words ''in accordance with this section'' and ''due'' are omitted as surplus. The word ''personnel'' is substituted for ''manpower'' for consistency in the revised title.

§ 44504. Improved aircraft, aircraft engines, propellers, and appliances

(a) DEVELOPMENTAL WORK AND SERVICE TESTING.—The Administrator of the Federal Aviation Administration may conduct or supervise developmental work and service testing to improve aircraft, aircraft engines, propellers, and appliances.

(b) RESEARCH.—The Administrator shall conduct or supervise research—

(1) to develop technologies and analyze information to predict the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and air safety;

(2) to develop methods of analyzing and improving aircraft maintenance technology and practices, including nondestructive evaluation of aircraft structures;

(3) to assess the fire and smoke resistance of aircraft material;

(4) to develop improved fire and smoke resistant material for aircraft interiors;

(5) to develop and improve fire and smoke containment systems for inflight aircraft fires;

(6) to develop advanced aircraft fuels with low flammability and technologies that will contain aircraft fuels to minimize post-crash fire hazards; and

(7) to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances that could result in a catastrophic failure of an aircraft.

(c) AUTHORITY TO BUY ITEMS OFFERING SPECIAL ADVANTAGES.—In carrying out this section, the Administrator, by negotiation or otherwise, may buy or exchange experimental aircraft, aircraft engines, propellers, and appliances that the Administrator decides may offer special advantages to aeronautics.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1176.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44504(a)	49 App.:1353(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 312(b) (1st, last sentences), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44504(b)	49 App.:1353(b) (2d sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(b) (2d sentence); added Nov. 3, 1988, Pub. L. 100–591, § 2, 102 Stat. 3011; Nov. 5, 1990, Pub. L. 101–508, § 9208(a), 104 Stat. 1388–376.
44504(c)	49 App.:1353(b) (last sentence) 49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 312(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g).

In subsection (a), the words ''to improve'' are substituted for ''such . . . as tends to the creation of improved'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102 of this title.

§ 44505. Systems, procedures, facilities, and devices

(a) GENERAL REQUIREMENTS.—(1) The Administrator of the Federal Aviation Administration shall—

(A) develop, alter, test, and evaluate systems, procedures, facilities, and devices, and define their performance characteristics, to meet the needs for safe and efficient navigation and traffic control of civil and military aviation, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern; and

(B) select systems, procedures, facilities, and devices that will best serve those needs and promote maximum coordination of air traffic control and air defense systems.

(2) The Administrator may make contracts to carry out this subsection without regard to section 3324(a) and (b) of title 31.

(3) When a substantial question exists under paragraph (1) of this subsection about whether a matter is of primary concern to the armed forces, the Administrator shall decide whether the Administrator or the Secretary of the appropriate military department has responsibility. The Administrator shall be given technical information related to each research and development project of the armed forces that potentially applies to, or potentially conflicts with, the common system to ensure that potential application to the common system is considered properly and that potential conflicts with the system are eliminated.

(b) RESEARCH ON HUMAN FACTORS AND SIMULATION MODELS.—The Administrator shall conduct or supervise research—

(1) to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety;

(2) to enhance air traffic controller, mechanic, and flight crew performance;

(3) to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews;

(4) to identify innovative and effective corrective measures for human errors that adversely affect air safety; and

(5) to develop dynamic simulation models of the air traffic control system and airport design and operating procedures that will provide analytical technology—

(A) to predict airport and air traffic control safety and capacity problems;

(B) to evaluate planned research projects; and

(C) to test proposed revisions in airport and air traffic control operations programs.

(c) RESEARCH ON DEVELOPING AND MAINTAINING A SAFE AND EFFICIENT SYSTEM.—The Administrator shall conduct or supervise research on—

(1) airspace and airport planning and design;

(2) airport capacity enhancement techniques;

(3) human performance in the air transportation environment;

(4) aviation safety and security;

(5) the supply of trained air transportation personnel, including pilots and mechanics; and

(6) other aviation issues related to developing and maintaining a safe and efficient air transportation system.

(d) COOPERATIVE AGREEMENTS.—The Administrator may enter into cooperative agreements on a cost-shared basis with Federal and non-Federal entities that the Administrator may select in order to conduct, encourage, and promote aviation research, engineering, and development, including the development of prototypes and demonstration models.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1177; Pub. L. 103–305, title III, § 307, Aug. 23, 1994, 108 Stat. 1593.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44505(a)(1) ..	49 App.:1353(c) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 312(c) (1st, 5th–last sentences), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44505(a)(2) ..	49 App.:1353(c) (5th sentence). 49 App.:1655(c)(1).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44505(a)(3) ..	49 App.:1353(c) (6th, last sentences). 49 App.:1655(c)(1).	
44505(b)	49 App.:1353(c) (2d, 3d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(c) (2d, 3d sentences); added Nov. 3, 1988, Pub. L. 100–591, § 3, 102 Stat. 3011.
44505(c)	49 App.:1353(c) (4th sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(c) (4th sentence); added Nov. 5, 1990, Pub. L. 101–508, § 9209(c), 104 Stat. 1388–378.

In this section, the word ''Administrator'' in section 312(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g).

In subsection (a)(1) and (3), the words ''the armed forces'' are substituted for ''military agencies'' and ''the military'' because of the definition of ''armed forces'' in 10:101.

In subsection (a)(3), the words ''military department'' are substituted for ''military agency'' because of the definition of ''military department'' in 10:101. The words ''the needs of'' and ''to the maximum extent necessary'' are omitted as surplus.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–305 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102 of this title.

§ 44506. Air traffic controllers

(a) RESEARCH ON EFFECT OF AUTOMATION ON PERFORMANCE.—To develop the means necessary to establish appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system. The research shall include investigating—

(1) methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including the use of simulation technology;

(2) the role of automation in the air traffic control system and its physical and psychological effects on air traffic controllers;

(3) the attributes and aptitudes needed to function well in a highly automated air traffic control system and the development of appropriate testing methods for identifying individuals with those attributes and aptitudes;

(4) innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system; and

(5) new technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(b) RESEARCH ON HUMAN FACTOR ASPECTS OF AUTOMATION.—The Administrators of the Federal Aviation Administration and National Aeronautics and Space Administration may make an agreement for the use of the National Aeronautics and Space Administration's unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers. The research activities shall include investigating—

(1) human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers;

(2) information management techniques for advanced air traffic control display systems; and

(3) air traffic controller workload and performance measures, including the development of predictive models.

(c) COLLEGIATE TRAINING INITIATIVE.—(1) The Administrator of the Federal Aviation Administration may maintain the Collegiate Training Initiative program by making new agreements and continuing existing agreements with institutions of higher education (as defined by the Administrator) under which the institutions prepare students for the position of air traffic controller with the Department of Transportation (as defined in section 2109 of title 5). The Administrator may establish standards for the entry of institutions into the program and for their continued participation.

(2)(A) The Administrator of the Federal Aviation Administration may appoint an individual who has successfully completed a course of training in a program described in paragraph (1) of this subsection to the position of air traffic controller noncompetitively in the excepted service (as defined in section 2103 of title 5). An individual appointed under this paragraph serves at the pleasure of the Administrator, subject to section 7511 of title 5. However, an appointment under this paragraph may be converted from one in the excepted service to a career conditional or career appointment in the competitive civil service (as defined in section 2102 of title 5) when the individual achieves full performance level air traffic controller status, as decided by the Administrator.

(B) The authority under subparagraph (A) of this paragraph to make appointments in the excepted service expires on October 6, 1997, except that the Administrator of the Federal Aviation Administration may extend the authority for one or more successive one-year periods.

(d) STAFFING REPORT.—The Administrator of the Federal Aviation Administration shall submit annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) the staffing standards used to determine the number of air traffic controllers needed to operate the air traffic control system of the United States;

(2) a 3-year projection of the number of controllers needed to be employed to operate the system to meet the standards; and

(3) a detailed plan for employing the controllers, including projected budget requests.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1178.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44506(a), (b)	49 App.:1353 (note).	Nov. 3, 1988, Pub. L. 100–591, § 8(a)–(c), 102 Stat. 3015; Nov. 17, 1988, Pub. L. 100–685, §§ 601–603, 102 Stat. 4102.
44506(c)	49 App.:1348a.	Oct. 6, 1992, Pub. L. 102–388, § 362, 106 Stat. 1560.
44506(d)	49 App.:1348 (note).	Oct. 31, 1992, Pub. L. 102–581, § 120, 106 Stat. 4884.

In subsections (a) and (b), the text of section 8(a) and (b)(3) of the Aviation Safety Research Act of 1988 (Public Law 100–581, 102 Stat. 3015, 3016) and sections 601 and 602(3) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (Public Law 100–685, 102 Stat. 4102, 4103) is omitted as executed.

In subsection (c), the words ''institutions of higher education'' are substituted for ''post-secondary educational institutions'' for consistency in the revised title.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives changed to Committee on Transportation and Infrastructure of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 48102 of this title.

§ 44507. Civil aeromedical research

The Civil Aeromedical Institute established by section 106(j) of this title may—

(1) conduct civil aeromedical research, including research related to—

(A) the protection and survival of aircraft occupants;

(B) medical accident investigation and airman medical certification;

(C) toxicology and the effects of drugs on human performance;

(D) the impact of disease and disability on human performance;

(E) vision and its relationship to human performance and equipment design;

(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other individuals involved in operating and maintaining aircraft and air traffic control equipment; and

(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

(2) make comments to the Administrator of the Federal Aviation Administration on human factors aspects of proposed air safety regulations;

(3) make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

(4) advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between the Administration and the National Aeronautics and Space Administration, other departments, agencies, and instrumentalities of the United States Government, industry, and governments of foreign countries; and

(5) provide medical consultation services to the Administrator about medical certification of airmen.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1179.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44507	49 App.:1353(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(e); added Nov. 3, 1988, Pub. L. 100–591, § 5(b), 102 Stat. 3013.

In clause (4), the words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''Government agencies'' for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102 of this title.

§ 44508. Research advisory committee

(a) ESTABLISHMENT AND DUTIES.—(1) There is a research advisory committee in the Federal Aviation Administration. The committee shall—

(A) provide advice and recommendations to the Administrator of the Federal Aviation Administration about needs, objectives, plans, approaches, content, and accomplishments of the aviation research program carried out under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title;

(B) assist in ensuring that the research is coordinated with similar research being conducted outside the Administration; and

(C) review the operations of the regional centers of air transportation excellence established under section 44513 of this title.

(2) The Administrator may establish subordinate committees to provide advice on specific areas of research conducted under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title.

(b) MEMBERS, CHAIRMAN, PAY, AND EXPENSES.—(1) The committee is composed of not more than 30 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. In appointing members of the committee, the Administrator shall ensure that the regional centers of air transportation excellence, universities, corporations, associations, consumers, and other departments, agencies, and instrumentalities of the United States Government are represented.

(2) The Administrator shall designate the chairman of the committee.

(3) A member of the committee serves without pay. However, the Administrator may allow a member, when attending meetings of the committee or a subordinate committee, expenses as authorized under section 5703 of title 5.

(c) SUPPORT STAFF, INFORMATION, AND SERVICES.—The Administrator shall provide support staff for the committee. On request of the com-

mittee, the Administrator shall provide information, administrative services, and supplies that the Administrator considers necessary for the committee to carry out its duties and powers.

(d) NONAPPLICATION.—Section 14 of the Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the committee.

(e) USE AND LIMITATION OF AMOUNTS.—(1) Not more than .1 percent of the amounts made available to conduct research under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title may be used by the Administrator to carry out this section.

(2) A limitation on amounts available for obligation by or for the committee does not apply to amounts made available to carry out this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1180.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44508(a)(1) ..	49 App.:1353(f)(1), (2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(f); added Nov. 3, 1988, Pub. L. 100–591, § 6, 102 Stat. 3013; Nov. 5, 1990, Pub. L. 101–508, § 9209(b), 104 Stat. 1388–377.
44508(a)(2) ..	49 App.:1353(f)(6) (last sentence).	
44508(b)	49 App.:1353(f) (3)–(5).	
44508(c)	49 App.:1353(f)(6) (1st sentence), (7).	
44508(d)	49 App.:1353(f)(8).	
44508(e)	49 App.:1353(f)(9).	

In subsection (a)(1), before clause (A), the words ''There is a'' are substituted for ''Not later than 180 days after November 3, 1988, the Administrator shall establish'' to eliminate obsolete words. In clause (C), the words ''operations of'' are substituted for ''research and training to be carried out by'' for consistency with section 44513 of the revised title.

In subsection (a)(2), the words ''to the advisory committee'' are omitted as surplus.

In subsection (b)(1), the words ''departments, agencies, and instrumentalities'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(3), the words ''travel or transportation'' are omitted as surplus.

In subsection (e), the words ''for fiscal years beginning after September 30, 1988'' are omitted as obsolete.

REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (d), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119 of this title.

§ 44509. Demonstration projects

The Secretary of Transportation may carry out under this chapter demonstration projects that the Secretary considers necessary for research and development activities under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1181.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44509	49 App.:2205(b)(1).	Sept. 3, 1982, Pub. L. 97–248, § 506(b)(1), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, § 105(b)(1), 101 Stat. 1490.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 48102, 49101, 49102, 49105 of this title; title 26 section 4261.

§ 44510. Airway science curriculum grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make competitive grant agreements with institutions of higher education having airway science curricula for the United States Government's share of the allowable direct costs of the following categories of items to the extent that the items are in support of airway science curricula:

(1) the construction, purchase, or lease with an option to purchase, of buildings and associated facilities.

(2) instructional material and equipment.

(b) COST GUIDELINES.—The Administrator shall establish guidelines to determine the direct costs allowable under a grant to be made under this section. The Government's share of the allowable cost of a project assisted by a grant under this section may not be more than 65 percent.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1181.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44510(a)	49 App.:1354a (1st sentence).	Nov. 5, 1990, Pub. L. 101–516, (1st sentence last proviso, 3d, last sentences in par. under heading ''Facilities and Equipment''), 104 Stat. 2160. Oct. 28, 1991, Pub. L. 102–143, (1st sentence last proviso, 3d, last sentences in par. under heading ''Facilities and Equipment''), 105 Stat. 922. Oct. 6, 1992, Pub. L. 102–388, (1st sentence last proviso, 3d, last sentences in par. under heading ''Facilities and Equipment''), 106 Stat. 1525.
44510(b)	49 App.:1354a (3d, last sentences).	

In subsection (a), before clause (1), the words ''With appropriations made for the Airway Science Program, as authorized below in this section'' are omitted as unnecessary because of section 48106 of the revised title.

In subsection (b), the proviso is omitted as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 48106 of this title.

§ 44511. Aviation research grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education and nonprofit research organizations to conduct aviation research in areas the Administrator

considers necessary for the long-term growth of civil aviation.

(b) APPLICATIONS.—An institution of higher education or nonprofit research organization interested in receiving a grant under this section may submit an application to the Administrator. The application must be in the form and contain the information the Administrator requires.

(c) SOLICITATION, REVIEW, AND EVALUATION PROCESS.—The Administrator shall establish a solicitation, review, and evaluation process that ensures—

(1) providing grants under this section for proposals having adequate merit and relevancy to the mission of the Administration;

(2) a fair geographical distribution of grants under this section; and

(3) the inclusion of historically black institutions of higher education and other minority nonprofit research organizations for grant consideration under this section.

(d) RECORDS.—Each person receiving a grant under this section shall maintain records that the Administrator requires as being necessary to facilitate an effective audit and evaluation of the use of money provided under the grant.

(e) ANNUAL REPORT.—The Administrator shall submit an annual report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on carrying out this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1181.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44511	49 App.:1353(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(g); added Nov. 5, 1990, Pub. L. 101–508, § 9205(a), 104 Stat. 1388–373.

In this section, the words ''institutions of higher education'' and ''institution of higher education'' are substituted for ''colleges, universities'', ''university, college'', and ''colleges and universities'' for consistency in the revised title.

In subsection (c), the words ''providing grants'' are substituted for ''the funding'', the word ''grants'' is substituted for ''grant funds'', and the words ''grant consideration'' are substituted for ''funding consideration'', for consistency in the revised title.

In subsection (d), the words ''money provided under the grant'' are substituted for ''grant funds'' for consistency.

CHANGE OF NAME

Committee on Science, Space, and Technology of House of Representatives changed to Committee on Science of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102, 49103 of this title.

§ 44512. Catastrophic failure prevention research grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education and nonprofit research organizations—

(1) to conduct aviation research related to the development of technologies and methods to assess the risk of, and prevent, defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances that could result in a catastrophic failure of an aircraft; and

(2) to establish centers of excellence for continuing the research.

(b) SOLICITATION, APPLICATION, REVIEW, AND EVALUATION PROCESS.—The Administrator shall establish a solicitation, application, review, and evaluation process that ensures providing grants under this section for proposals having adequate merit and relevancy to the research described in subsection (a) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1182.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44512	49 App.:1353(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(h); added Nov. 5, 1990, Pub. L. 101–508, § 9208(b), 104 Stat. 1388–376.

In this section, the words ''institutions of higher education'' are substituted for ''colleges, universities'' for consistency in the revised title.

In subsection (b), the words ''providing grants'' are substituted for ''the funding'' for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102, 49103 of this title.

§ 44513. Regional centers of air transportation excellence

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education to establish and operate regional centers of air transportation excellence. The locations shall be distributed in a geographically fair way.

(b) RESPONSIBILITIES.—(1) The responsibilities of each center established under this section shall include—

(A) conducting research on—

(i) airspace and airport planning and design;

(ii) airport capacity enhancement techniques;

(iii) human performance in the air transportation environment;

(iv) aviation safety and security;

(v) the supply of trained air transportation personnel, including pilots and mechanics; and

(vi) other aviation issues related to developing and maintaining a safe and efficient air transportation system; and

(B) interpreting, publishing, and disseminating the results of the research.

(2) In conducting research described in paragraph (1)(A) of this subsection, each center may

make contracts with nonprofit research organizations and other appropriate persons.

(c) APPLICATIONS.—An institution of higher education interested in receiving a grant under this section may submit an application to the Administrator. The application must be in the form and contain the information that the Administrator requires by regulation.

(d) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this section on the basis of the following criteria:

(1) the extent to which the needs of the State in which the applicant is located are representative of the needs of the region for improved air transportation services and facilities.

(2) the demonstrated research and extension resources available to the applicant to carry out this section.

(3) the ability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

(4) the extent to which the applicant has an established air transportation program.

(5) the demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or regionwide continuing education program.

(6) the projects the applicant proposes to carry out under the grant.

(e) EXPENDITURE AGREEMENTS.—A grant may be made under this section in a fiscal year only if the recipient makes an agreement with the Administrator that the Administrator requires to ensure that the recipient will maintain its total expenditures from all other sources for establishing and operating the center and related research activities at a level at least equal to the average level of those expenditures in the 2 fiscal years of the recipient occurring immediately before November 5, 1990.

(f) GOVERNMENT'S SHARE OF COSTS.—The United States Government's share of a grant under this section is 50 percent of the costs of establishing and operating the center and related research activities that the grant recipient carries out.

(g) ALLOCATING AMOUNTS.—The Administrator shall allocate amounts made available to carry out this section in a geographically fair way.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1182.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44513	49 App.:1353(i).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(i); added Nov. 5, 1990, Pub. L. 101–508, § 9209(a), 104 Stat. 1388–376.

In this section, the words ''institutions of higher education'' and ''institution of higher education'' are substituted for ''colleges or universities'' and ''college or university'' for consistency in the revised title.

In subsection (a), the words ''one or more'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102, 49103 of this title.

§ 44514. Flight service stations

(a) HOURS OF OPERATION.—(1) The Secretary of Transportation may close, or reduce the hours of operation of, a flight service station in an area only if the service provided in the area after the closing or during the hours the station is not in operation is provided by an automated flight service station with at least model 1 equipment.

(2) The Secretary shall reopen a flight service station closed after March 24, 1987, but before July 15, 1987, as soon as practicable if the service in the area in which the station is located has not been provided since the closing by an automatic flight service station with at least model 1 equipment. The hours of operation for the reopened station shall be the same as were the hours of operation for the station on March 25, 1987. After reopening the station, the Secretary may close, or reduce the hours of operation of, the station only as provided in paragraph (1) of this subsection.

(b) MANNED AUXILIARY STATIONS.—The Secretary and the Administrator of the Federal Aviation Administration shall establish a system of manned auxiliary flight service stations. The manned auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. A manned auxiliary flight service station shall be located in an area of unique weather or operational conditions that are critical to the safety of flight.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1183.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44514(a)	49 App.:2224.	Sept. 3, 1982, Pub. L. 97–248, § 528, 96 Stat. 699; restated Dec. 30, 1987, Pub. L. 100–223, § 113, 101 Stat. 1505.
44514(b)	49 App.:1348 (notes).	Nov. 5, 1990, Pub. L. 101–508, § 9115, 104 Stat. 1388–364. Nov. 5, 1990, Pub. L. 101–516, § 330(a), 104 Stat. 2184.

In subsection (a)(1), the words ''On or after July 15, 1987'' are omitted as obsolete.

In subsection (a)(2), the words ''after December 30, 1987'' are omitted as obsolete. The words ''the date of'' are omitted as surplus.

In subsection (b), the text of section 9115(b) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–364) and section 330(a) (last sentence) of the Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101–516, 104 Stat. 2184) is omitted as obsolete.

§ 44515. Advanced training facilities for maintenance technicians for air carrier aircraft

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to not more than 4 vocational technical educational institutions to acquire or construct facilities to be used for the advanced training of maintenance technicians for air carrier aircraft.

(b) ELIGIBILITY.—The Administrator may make a grant under this section to a vocational technical educational institution only if the institution has a training curriculum that prepares aircraft maintenance technicians who hold airframe and power plant certificates under subpart D of part 65 of title 14, Code of Federal Regulations, to maintain, without direct supervision, air carrier aircraft.

(c) LIMITATION.—A vocational technical educational institution may not receive more than a total of $5,000,000 in grants under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1184.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44515	49 App.:1354 (note).	Oct., 31, 1992, Pub. L. 102–581, § 119(a)–(c), 106 Stat. 4883.

The words ''vocational technical educational institution'' are used throughout this section for consistency in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 48110 of this title.

CHAPTER 447—SAFETY REGULATION

Sec.
44701. General requirements.
44702. Issuance of certificates.
44703. Airman certificates.
44704. Type certificates, production certificates, and airworthiness certificates.
44705. Air carrier operating certificates.
44706. Airport operating certificates.
44707. Examining and rating air agencies.
44708. Inspecting and rating air navigation facilities.
44709. Amendments, modifications, suspensions, and revocations of certificates.
44710. Revocations of airman certificates for controlled substance violations.
44711. Prohibitions and exemption.
44712. Emergency locator transmitters.
44713. Inspection and maintenance.
44714. Aviation fuel standards.
44715. Controlling aircraft noise and sonic boom.
44716. Collision avoidance systems.
44717. Aging aircraft.
44718. Structures interfering with air commerce.
44719. Standards for navigational aids.
44720. Meteorological services.
44721. Aeronautical maps and charts.
44722. Aircraft operations in winter conditions.
44723. Annual report.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 section 2640; title 11 section 1110.

§ 44701. General requirements

(a) PROMOTING SAFETY.—The Administrator of the Federal Aviation Administration shall promote safe flight of civil aircraft in air commerce by prescribing—

(1) minimum standards required in the interest of safety for appliances and for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers;

(2) regulations and minimum standards in the interest of safety for—

(A) inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances;

(B) equipment and facilities for, and the timing and manner of, the inspecting, servicing, and overhauling; and

(C) a qualified private person, instead of an officer or employee of the Administration, to examine and report on the inspecting, servicing, and overhauling;

(3) regulations required in the interest of safety for the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, including the reserve supply of fuel and oil carried in flight;

(4) regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers; and

(5) regulations and minimum standards for other practices, methods, and procedure the Administrator finds necessary for safety in air commerce and national security.

(b) PRESCRIBING MINIMUM SAFETY STANDARDS.—The Administrator may prescribe minimum safety standards for—

(1) an air carrier to whom a certificate is issued under section 44705 of this title; and

(2) operating an airport serving any passenger operation of air carrier aircraft designed for at least 31 passenger seats.

(c) REDUCING AND ELIMINATING ACCIDENTS.—The Administrator shall carry out this chapter in a way that best tends to reduce or eliminate the possibility or recurrence of accidents in air transportation. However, the Administrator is not required to give preference either to air transportation or to other air commerce in carrying out this chapter.

(d) CONSIDERATIONS AND CLASSIFICATION OF REGULATIONS AND STANDARDS.—When prescribing a regulation or standard under subsection (a) or (b) of this section or any of sections 44702–44716 of this title, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and other air commerce; and

(2) classify a regulation or standard appropriate to the differences between air transportation and other air commerce.

(e) EXEMPTIONS.—The Administrator may grant an exemption from a requirement of a regulation prescribed under subsection (a) or (b) of this section or any of sections 44702–44716 of this title if the Administrator finds the exemption is in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1185; Pub. L. 103–429, § 6(55), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44701(a)	49 App.:1421(a).	Aug. 23, 1958, Pub. L. 85–726, §§601(a), (b) (1st sentence related to standards, rules, and regulations, last sentence), (c), 604(a) (related to standards), 72 Stat. 775, 778.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44701(b)	49 App.:1424(a) (related to standards).	
	49 App.:1432(a) (related to standards).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §612(a) (related to standards); added May 21, 1970, Pub. L. 91–258, §51(b)(1), 84 Stat. 234; restated Sept. 3, 1982, Pub. L. 97–248, §525(a), 96 Stat. 697.
	49 App.:1655(c)(1).	
44701(c)	49 App.:1421(b) (last sentence).	
	49 App.:1655(c)(1).	
44701(d)	49 App.:1421(b) (1st sentence related to standards, rules, and regulations).	
	49 App.:1655(c)(1).	
44701(e)	49 App.:1421(c).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in sections 601(a)–(c) and 604 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775, 778) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''is empowered and it . . . be his duty to'' and ''and revising from time to time'' are omitted as surplus. In clause (1), the words ''as may be'' are omitted as surplus. In clauses (2)–(5), the words ''Reasonable'' and ''reasonable'' are omitted as surplus and the word ''rules'' is omitted as being synonymous with ''regulations''. In clause (5), the words ''to provide adequately'' are omitted as surplus.

In subsection (b)(1), the words ''the operation of'' are omitted as surplus. The words ''under section 44705 of this title'' are added for clarity.

In subsection (b)(2), the words ''scheduled or unscheduled'' are omitted as surplus.

In subsection (c), the words ''carry out'' are substituted for ''exercise and perform his powers and duties under'', and the words ''in carrying out'' are substituted for ''in the administration and enforcement of'', for consistency and to eliminate unnecessary words.

In subsection (d), before clause (1), the word ''rules'' is omitted as being synonymous with ''regulations''. In clause (1), before subclause (A), the word ''full'' is omitted as surplus. In clause (1)(A), the word ''provide'' is substituted for ''perform'' for consistency in the revised title.

In subsection (e), the words ''from time to time'' are omitted as surplus. The word ''rule'' is omitted as being synonymous with ''regulation''.

PUB. L. 103–429

This amends 49:44701(d) and (e) to correct erroneous cross-references.

AMENDMENTS

1994—Subsecs. (d), (e). Pub. L. 103–429 substituted ''any of sections 44702–44716'' for ''section 44702–44716''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44704, 44711, 44717, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44702. Issuance of certificates

(a) GENERAL AUTHORITY AND APPLICATIONS.—The Administrator of the Federal Aviation Administration may issue airman certificates, type certificates, production certificates, airworthiness certificates, air carrier operating certificates, airport operating certificates, air agency certificates, and air navigation facility certificates under this chapter. An application for a certificate must—

(1) be under oath when the Administrator requires; and

(2) be in the form, contain information, and be filed and served in the way the Administrator prescribes.

(b) CONSIDERATIONS.—When issuing a certificate under this chapter, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and other air commerce; and

(2) classify a certificate according to the differences between air transportation and other air commerce.

(c) PRIOR CERTIFICATION.—The Administrator may authorize an aircraft, aircraft engine, propeller, or appliance for which a certificate has been issued authorizing the use of the aircraft, aircraft engine, propeller, or appliance in air transportation to be used in air commerce without another certificate being issued.

(d) DELEGATION.—(1) Subject to regulations, supervision, and review the Administrator may prescribe, the Administrator may delegate to a qualified private person, or to an employee under the supervision of that person, a matter related to—

(A) the examination, testing, and inspection necessary to issue a certificate under this chapter; and

(B) issuing the certificate.

(2) The Administrator may rescind a delegation under this subsection at any time for any reason the Administrator considers appropriate.

(3) A person affected by an action of a private person under this subsection may apply for reconsideration of the action by the Administrator. On the Administrator's own initiative, the Administrator may reconsider the action of a private person at any time. If the Administrator decides on reconsideration that the action is unreasonable or unwarranted, the Administrator shall change, modify, or reverse the action. If the Administrator decides the action is warranted, the Administrator shall affirm the action.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1186.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44702(a)	49 App.:1422(a) (1st–10th words).	Aug. 23, 1958, Pub. L. 85–726, §§314 (less (a) (last sentence related to fees)), 601(b) (1st sentence related to issuing certificates, 2d sentence), 602(a) (1st–8th words), 603(a)(1), (b), (c) (as §603(a)(1), (b), (c) relate to issuing certificates), 604(a) (related to issuing certificates), 606 (last sentence), 607 (last sentence), 608, 72 Stat. 754, 775, 776, 777, 778, 779.
	49 App.:1423(a)(1), (b), (c) (as 49 App.:1423(a)(1), (b), (c) relate to issuing certificates).	
	49 App.:1424(a) (related to issuing certificates).	
	49 App.:1426 (last sentence).	
	49 App.:1427 (last sentence).	
	49 App.:1428.	
	49 App.:1432(a) (related to issuing certificates).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §612(a) (related to issuing certificates); added May 21, 1970, Pub. L. 91–258, §51(b)(1), 84 Stat. 234; restated Sept. 3, 1982, Pub. L. 97–248, §525(a), 96 Stat. 697.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44702(b)	49 App.:1421(b) (1st sentence related to issuing certificates).	
	49 App.:1655(c)(1).	
44702(c)	49 App.:1421(b) (2d sentence).	
	49 App.:1655(c)(1).	
44702(d)	49 App.:1355 (less (a) (last sentence related to fees)).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in sections 601(b), 602(a), 603(a)(1), 604(a), 606 (last sentence), 607 (last sentence), and 608 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775, 776, 778, 779) is retained on authority of 49:106(g).

In subsection (a), the reference to a type certificate and production certificate is added for clarity.

In subsection (b)(1), before subclause (A), the word ''full'' is omitted as surplus. In clause (1)(A), the word ''provide'' is substituted for ''perform'' for consistency in the revised title.

In subsection (d)(1), before clause (A), the words ''In exercising the powers and duties vested in him by this chapter'' and ''properly'' are omitted as surplus. The words ''or employees'' are omitted because of 1:1. The word ''matter'' is substituted for ''work, business, or function'' to eliminate unnecessary words. In clause (B), the words ''in accordance with standards established by him'' are omitted as surplus.

In subsection (d)(2), the words ''made by him'' are omitted as surplus.

In subsection (d)(3), the words ''exercising delegated authority'' and ''with respect to the authority granted under subsection (a) of this section'' are omitted as surplus. The words ''at any time'' are substituted for ''either before or after it has become effective'', and the words ''If the Administrator decides on reconsideration that the action is unreasonable or unwarranted'' are substituted for ''If, upon reconsideration by the Secretary of Transportation, it shall appear that the action in question is in any respect unjust or unwarranted'', to eliminate unnecessary words. The words ''the action'' are substituted for ''the same accordingly'', and the words ''If the Administrator decides the action is warranted, the Administrator shall affirm the action'' are substituted for ''otherwise, such action shall be affirmed'', for clarity. The text of 49 App.:1355(b) (proviso) is omitted as unnecessary because of 5:559 (last sentence).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 45303, 46301, 46310, 46316, 47531 of this title.

§ 44703. Airman certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airman certificate to an individual when the Administrator finds, after investigation, that the individual is qualified for, and physically able to perform the duties related to, the position to be authorized by the certificate.

(b) CONTENTS.—(1) An airman certificate shall—

(A) be numbered and recorded by the Administrator of the Federal Aviation Administration;

(B) contain the name, address, and description of the individual to whom the certificate is issued;

(C) contain terms the Administrator decides are necessary to ensure safety in air commerce, including terms on the duration of the certificate, periodic or special examinations, and tests of physical fitness;

(D) specify the capacity in which the holder of the certificate may serve as an airman with respect to an aircraft; and

(E) designate the class the certificate covers.

(2) A certificate issued to a pilot serving in scheduled air transportation shall have the designation ''airline transport pilot'' of the appropriate class.

(c) APPEALS.—(1) An individual whose application for the issuance or renewal of an airman certificate has been denied may appeal the denial to the National Transportation Safety Board, except if the individual holds a certificate that—

(A) is suspended at the time of denial; or

(B) was revoked within one year from the date of the denial.

(2) The Board shall conduct a hearing on the appeal at a place convenient to the place of residence or employment of the applicant. The Board is not bound by findings of fact of the Administrator of the Federal Aviation Administration but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law. At the end of the hearing, the Board shall decide whether the individual meets the applicable regulations and standards. The Administrator is bound by that decision.

(d) RESTRICTIONS AND PROHIBITIONS.—The Administrator of the Federal Aviation Administration may—

(1) restrict or prohibit issuing an airman certificate to an alien; or

(2) make issuing the certificate to an alien dependent on a reciprocal agreement with the government of a foreign country.

(e) CONTROLLED SUBSTANCE VIOLATIONS.—The Administrator of the Federal Aviation Adminis-

tration may not issue an airman certificate to an individual whose certificate is revoked under section 44710 of this title except—

(1) when the Administrator decides that issuing the certificate will facilitate law enforcement efforts; and

(2) as provided in section 44710(e)(2) of this title.

(f) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for issuing airman certificates necessary to make the system more effective in serving the needs of pilots and officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The modifications shall ensure positive and verifiable identification of each individual applying for or holding a certificate and shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) the use of fictitious names and addresses by applicants for those certificates.

(B) the use of stolen or fraudulent identification in applying for those certificates.

(C) the use by an applicant of a post office box or ''mail drop'' as a return address to evade identification of the applicant's address.

(D) the use of counterfeit and stolen airman certificates by pilots.

(E) the absence of information about physical characteristics of holders of those certificates.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1186.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44703(a)	49 App.:1422(b)(1) (1st sentence, 2d sentence words before 6th comma).	Aug. 23, 1958, Pub. L. 85–726, § 602(b)(1), 72 Stat. 776; Oct. 19, 1984, Pub. L. 98–499, § 3, 98 Stat. 2313; Aug. 26, 1992, Pub. L. 102–345, § 4, 106 Stat. 926.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44703(b)	49 App.:1422(a) (11th–last words).	Aug. 23, 1958, Pub. L. 85–726, § 602(a) (9th–last words), (c), 72 Stat. 776.
	49 App.:1422(b)(1) (2d sentence words after 6th comma), (c).	
	49 App.:1655(c)(1).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44703(c)(1) ..	49 App.:1422(b)(1) (3d sentence).	
44703(c)(2) ..	49 App.:1422(b)(1) (4th, 5th sentences, last sentence words before proviso).	
	49 App.:1655(c)(1).	
44703(d)	49 App.:1422(b)(1) (last sentence proviso).	
	49 App.:1655(c)(1).	
44703(e)	49 App.:1422(b)(2)(A), (B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 602(b)(2)(A), (B); added Oct. 19, 1984, Pub. L. 98–499, § 3, 98 Stat. 2313; restated Nov. 18, 1988, Pub. L. 100–690, § 7204(a), 102 Stat. 4425.
44703(f)(1) ...	49 App.:1422(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 602(d); added Nov. 18, 1988, Pub. L. 100–690, § 7205(a), 102 Stat. 4426.
44703(f)(2) ...	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7207(a) (1st sentence), (b), 102 Stat. 4427.

In subsections (a)–(d), the word ''Administrator'' in section 602(a), (b)(1), and (c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 776) is retained on authority of 49:106(g).

In subsection (a), the text of 49 App.:1422(b) (1st sentence) is omitted as surplus. The words ''is qualified'' are substituted for ''possesses proper qualifications'' to eliminate unnecessary words. The words ''to be authorized by the certificate'' are substituted for ''for which the airman certificate is sought'' for clarity.

In subsection (b)(1)(C), the words ''conditions, and limitations'' are omitted as being included in ''terms''.

In subsection (b)(1)(E), the word ''designate'' is substituted for ''be entitled with the designation of'' to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words ''may appeal . . . to'' are substituted for ''may file with . . . a petition for review of the Secretary of Transportation's action'' for consistency with section 1109 of the revised title. The words ''the individual holds a certificate that'' are substituted for ''persons whose certificates'' for clarity.

In subsection (c)(2), the words ''conduct a hearing on the appeal'' are substituted for ''thereupon assign such petition for hearing'' for consistency. The words ''In the conduct of such hearing and in determining whether the airman meets the pertinent rules, regulations, or standards'' are omitted as surplus. The word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g). The words ''meets the applicable regulations'' are substituted for ''meets the pertinent rules, regulations'' because ''rules'' and ''regulations'' are synonymous and for consistency in the revised title.

In subsection (d), before clause (1), the words ''in his discretion'' are omitted as surplus. In clause (2), the words ''the terms of'' and ''entered into'' are omitted as surplus. The words ''government of a foreign country'' are substituted for ''foreign governments'' for consistency in the revised title and with other titles of the United States Code.

In subsection (f)(1), before clause (A), the words ''established under this chapter'' and ''to pilots'' are omitted as surplus.

In subsection (f)(2), the words ''Not later than September 18, 1989'' and ''final'' are omitted as obsolete. The words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words ''Commissioner of Customs'' are substituted for ''United States Customs Service'' because of 19:2071.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 1133, 44701, 44709, 44710, 44711, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44704. Type certificates, production certificates, and airworthiness certificates

(a) TYPE CERTIFICATES.—(1) The Administrator of the Federal Aviation Administration shall issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under paragraph (2)(A) of this subsection when the Administrator finds that the aircraft, aircraft engine, propeller, or appliance is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a) of this title. On receiving an application for a type certificate, the Administrator shall investigate the application and may conduct a hearing. The Administrator shall make, or require the applicant to make, tests the Administrator considers necessary in the interest of safety.

(2) The Administrator may—

(A) specify in regulations those appliances that reasonably require a type certificate in the interest of safety;

(B) include in a type certificate terms required in the interest of safety; and

(C) record on the certificate a numerical specification of the essential factors related to the performance of the aircraft, aircraft engine, or propeller for which the certificate is issued.

(b) PRODUCTION CERTIFICATES.—The Administrator shall issue a production certificate authorizing the production of a duplicate of an aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued when the Administrator finds the duplicate will conform to the certificate. On receiving an application, the Administrator shall inspect, and may require testing of, a duplicate to ensure that it conforms to the requirements of the certificate. The Administrator may include in a production certificate terms required in the interest of safety.

(c) AIRWORTHINESS CERTIFICATES.—(1) The registered owner of an aircraft may apply to the Administrator for an airworthiness certificate for the aircraft. The Administrator shall issue an airworthiness certificate when the Administrator finds that the aircraft conforms to its type certificate and, after inspection, is in condition for safe operation. The Administrator shall register each airworthiness certificate and may include appropriate information in the certificate. The certificate number or other individual designation the Administrator requires shall be displayed on the aircraft. The Administrator may include in an airworthiness certificate terms required in the interest of safety.

(2) A person applying for the issuance or renewal of an airworthiness certificate for an aircraft for which ownership has not been recorded under section 44107 or 44110 of this title must submit with the application information related to the ownership of the aircraft the Administrator decides is necessary to identify each person having a property interest in the aircraft and the kind and extent of the interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1188.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44704(a)(1) ..	49 App.:1423(a)(2) (1st–4th sentences).	Aug. 23, 1958, Pub. L. 85–726, §§ 503(h), 603(a)(1) (related to regulations for appliances), (2), (b) (related to basis for issuing, and contents of, certificates), (c) (related to basis for issuing, and contents of, certificates), 72 Stat. 774, 776.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44704(a)(2) ..	49 App.:1423(a)(1) (related to regulations for appliances), (2) (5th, last sentences).	
	49 App.:1655(c)(1).	
44704(b)	49 App.:1423(b) (related to basis for issuing, and contents of, certificates).	
	49 App.:1655(c)(1).	
44704(c)(1) ..	49 App.:1423(c) (related to basis for issuing, and contents of, certificates).	
	49 App.:1655(c)(1).	
44704(c)(2) ..	49 App.:1403(h).	
	49 App.:1655(c)(1).	

In subsections (a)–(c)(1), the word ''Administrator'' in section 603 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 776) is retained on authority of 49:106(g).

In subsection (a)(1), the text of 49 App.:1423(a)(2) (1st sentence 1st–16th words) and the words ''in regulations'' are omitted as surplus. The words ''properly designed and manufactured, performs properly'' are substituted for ''of proper design, material, specification, construction, and performance for safe operation'' to eliminate unnecessary words. The word ''rules'' is omitted as being synonymous with ''regulations''. The words ''under section 44701(a) of this title'' and ''for a type certificate'' are added for clarity. The words ''including flight tests and tests of raw materials or any part or appurtenance of such aircraft, aircraft engine, propeller, or appliance'' are omitted as surplus.

In subsection (a)(2)(A), the words ''issuance of'' are omitted as surplus.

In subsection (a)(2)(B), the words ''the duration thereof and such other'' are omitted as surplus. The words ''conditions, and limitations'' are omitted as being included in ''terms''.

In subsection (a)(2)(C), the words ''issued for aircraft, aircraft engines, or propellers'' and ''all of'' are omitted as surplus. The word ''specification'' is substituted for ''determination'' for clarity.

In subsection (b), the word ''satisfactorily'' is omitted as surplus. The words ''shall inspect, and may require testing of, a duplicate to ensure that it conforms to the requirements of the certificate'' are substituted for ''shall make such inspection and may require such tests of any aircraft, aircraft engine, propeller, or appliance manufactured under a production certificate as may be necessary to assure manufacture of each unit in conformity with the type certificate or any amendment or modification thereof'' to eliminate unnecessary words. The words ''the duration thereof and such other . . . conditions, and limitations'' are omitted as surplus.

In subsection (c)(1), the words ''may apply to'' are substituted for ''may file with . . . an application'' to eliminate unnecessary words. The words ''in accordance with regulations prescribed by the Secretary of Transportation'' are omitted because of 49:322(a). The words ''the duration of such certificate, the type of service for which the aircraft may be used, and such

other . . . conditions, and limitations'' are omitted as surplus.

In subsection (c)(2), the words ''having a property interest'' are substituted for ''who are holders of property interests'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44110, 44701, 44711, 44715, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44705. Air carrier operating certificates

The Administrator of the Federal Aviation Administration shall issue an air carrier operating certificate to a person desiring to operate as an air carrier when the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part. An air carrier operating certificate shall—

(1) contain terms necessary to ensure safety in air transportation; and

(2) specify the places to and from which, and the airways of the United States over which, a person may operate as an air carrier.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1189.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44705	49 App.:1424(b).	Aug. 23, 1958, Pub. L. 85–726, § 604(b), 72 Stat. 778.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, the word ''Administrator'' in section 604(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 778) is retained on authority of 49:106(g). Before clause (1), the words ''may file with the Secretary of Transportation an application for an air carrier operating certificate'' and ''the requirements of'' are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''. In clause (1), the words ''conditions, and limitations . . . reasonably'' are omitted as surplus. In clause (2), the word ''places'' is substituted for ''points'' for consistency in the revised title. The words ''under an air carrier operating certificate'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44107, 44701, 44711, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44706. Airport operating certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airport operating certificate to a person desiring to operate an airport—

(1) that serves an air carrier operating aircraft designed for at least 31 passenger seats;

(2) that the Administrator requires to have a certificate; and

(3) when the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part.

(b) TERMS.—An airport operating certificate issued under this section shall contain terms necessary to ensure safety in air transportation. Unless the Administrator decides that it is not in the public interest, the terms shall include conditions related to—

(1) operating and maintaining adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any part of the airport used for landing, takeoff, or surface maneuvering of an aircraft; and

(2) friction treatment for primary and secondary runways that the Secretary of Transportation decides is necessary.

(c) EXEMPTIONS.—The Administrator may exempt from the requirements of this section, related to firefighting and rescue equipment, an operator of an airport described in subsection (a) of this section having less than .25 percent of the total number of passenger boardings each year at all airports described in subsection (a) when the Administrator decides that the requirements are or would be unreasonably costly, burdensome, or impractical.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1189.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44706(a)	49 App.:1432(b) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 612(b); added May 21, 1970, Pub. L. 91–258, § 51(b)(1), 84 Stat. 234; Nov. 27, 1971, Pub. L. 92–174, § 5(b), 85 Stat. 492; Sept. 3, 1982, Pub. L. 97–248, §§ 524(f), 525(b), 96 Stat. 697.
44706(b)	49 App.:1432(b) (3d, last sentences).	
44706(c)	49 App.:1432(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 612(c); added July 12, 1976, Pub. L. 94–353, § 19(a), 90 Stat. 883; Sept. 3, 1982, Pub. L. 97–248, § 525(c), 96 Stat. 697.

In subsection (a), before clause (1), the words ''may file with the Administrator an application for an airport operating certificate'' are omitted as surplus. In clause (3), the words ''the requirements of'' are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''.

In subsection (b), before clause (1), the words ''conditions, and limitations . . . reasonably'' are omitted as surplus. In clause (2), the words ''grooving or other'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46301, 46310, 46316, 47110, 47501, 47531 of this title.

§ 44707. Examining and rating air agencies

The Administrator of the Federal Aviation Administration may examine and rate the following air agencies:

(1) civilian schools giving instruction in flying or repairing, altering, and maintaining aircraft, aircraft engines, propellers, and appliances, on the adequacy of instruction, the suitability and airworthiness of equipment, and the competency of instructors.

(2) repair stations and shops that repair, alter, and maintain aircraft, aircraft engines, propellers, and appliances, on the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of the individuals doing the work or giving instruction in the work.

(3) other air agencies the Administrator decides are necessary in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1190.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44707	49 App.:1427 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 607 (1st sentence), 72 Stat. 779.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, the word ''Administrator'' in section 607 (1st sentence) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g). In clauses (1) and (2), the word ''overhaul'' is omitted as surplus. In clause (1), the words ''course of'' are omitted as surplus. In clause (3), the words ''in his opinion'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44708. Inspecting and rating air navigation facilities

The Administrator of the Federal Aviation Administration may inspect, classify, and rate an air navigation facility available for the use of civil aircraft on the suitability of the facility for that use.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1190.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44708	49 App.:1426 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 606 (1st sentence), 72 Stat. 779.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The word ''Administrator'' in section 606 (1st sentence) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44709. Amendments, modifications, suspensions, and revocations of certificates

(a) REINSPECTION AND REEXAMINATION.—The Administrator of the Federal Aviation Administration may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency, or reexamine an airman holding a certificate issued under section 44703 of this title.

(b) ACTIONS OF THE ADMINISTRATOR.—The Administrator may issue an order amending, modifying, suspending, or revoking—

(1) any part of a certificate issued under this chapter if—

(A) the Administrator decides after conducting a reinspection, reexamination, or other investigation that safety in air commerce or air transportation and the public interest require that action; or

(B) the holder of the certificate has violated an aircraft noise or sonic boom standard or regulation prescribed under section 44715(a) of this title; and

(2) an airman certificate when the holder of the certificate is convicted of violating section 13(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j–1(a)).

(c) ADVICE TO CERTIFICATE HOLDERS AND OPPORTUNITY TO ANSWER.—Before acting under subsection (b) of this section, the Administrator shall advise the holder of the certificate of the charges or other reasons on which the Administrator relies for the proposed action. Except in an emergency, the Administrator shall provide the holder an opportunity to answer the charges and be heard why the certificate should not be amended, modified, suspended, or revoked.

(d) APPEALS.—(1) A person adversely affected by an order of the Administrator under this section may appeal the order to the National Transportation Safety Board. After notice and an opportunity for a hearing, the Board may amend, modify, or reverse the order when the Board finds—

(A) if the order was issued under subsection (b)(1)(A) of this section, that safety in air commerce or air transportation and the public interest do not require affirmation of the order; or

(B) if the order was issued under subsection (b)(1)(B) of this section—

(i) that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require affirmation of the order; or

(ii) the order, as it is related to a violation of aircraft noise or sonic boom standards and regulations, is not consistent with safety in air commerce or air transportation.

(2) The Board may modify a suspension or revocation of a certificate to imposition of a civil penalty.

(3) When conducting a hearing under this subsection, the Board is not bound by findings of fact of the Administrator but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—When a person files an appeal with the Board under subsection (d) of the section, the order of the Administrator is stayed. However, if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately—

(1) the order is effective; and

(2) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.

(f) JUDICIAL REVIEW.—A person substantially affected by an order of the Board under this section, or the Administrator when the Administrator decides that an order of the Board under

this section will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1190.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44709(a)	49 App.:1429(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 609(a) (1st–7th sentences, 8th–last sentences less Administrator under title VII), 72 Stat. 779; Nov. 18, 1971, Pub. L. 92–159, § 2(a), 85 Stat. 481; Nov. 27, 1971, Pub. L. 92–174, § 6, 85 Stat. 492; Aug. 26, 1992, Pub. L. 102–345, § 3(a)(1), 106 Stat. 925.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44709(b)	49 App.:1429(a) (2d sentence).	
	49 App.:1429(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 609(b); added Nov. 18, 1971, Pub. L. 92–159, § 2(a), 85 Stat. 481.
	49 App.:1431(e) (words before 4th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 611(e); added July 21, 1968, Pub. L. 90–411, § 1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, § 7(b), 86 Stat. 1241.
	49 App.:1655(c)(1).	
44709(c)	49 App.:1429(a) (3d sentence).	
	49 App.:1431(e) (words between 4th and 5th commas).	
	49 App.:1655(c)(1).	
44709(d)(1) ..	49 App.:1429(a) (4th sentence).	
	49 App.:1431(e) (words after 4th comma).	
44709(d)(2) ..	49 App.:1429(a) (6th sentence).	
44709(d)(3) ..	49 App.:1429(a) (5th sentence).	
	49 App.:1655(c)(1).	
44709(e)	49 App.:1429(a) (7th sentence).	
	49 App.:1655(c)(1).	
44709(f)	49 App.:1429(a) (8th–last sentences less Administrator under subch. VII).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 609(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g). The words ''modifying'', ''modify'', and ''modified'' are omitted as surplus.

In subsection (a), the words ''airman holding a certificate issued under section 44703 of this title'' are substituted for ''civil airman'' for clarity.

In subsection (b)(1), before subclause (A), the words ''certificate issued under this chapter'' are substituted for ''type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate (including airport operating certificate), or air agency certificate'' to eliminate unnecessary words.

In subsection (b)(2), the words ''in his discretion'' and ''regarding the use or operation of an aircraft'' in 49 App.:1429(b) are omitted as surplus.

In subsection (c), the words ''cases of'' in 49 App.:1429(a) are omitted as surplus.

In subsection (d)(1), before clause (A), the word ''adversely'' is substituted for ''whose certificate is'' in 49 App.:1429(a), and the words ''an opportunity for a'' are added, for consistency in the revised title and with other titles of the United States Code. The words ''of the FAA'' in 49 App.:1431(e) are omitted as surplus.

In subsection (d)(2), the words ''consistent with this subsection'' are omitted as surplus.

In subsection (d)(3), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g).

In subsection (e), before clause (1), the words ''the effectiveness of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 1133, 1153, 44701, 44711, 45302, 46301, 46310, 46316, 47531 of this title; title 42 section 4911.

§ 44710. Revocations of airman certificates for controlled substance violations

(a) DEFINITION.—In this section, ''controlled substance'' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATION.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking an airman certificate issued an individual under section 44703 of this title after the individual is convicted, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), of an offense punishable by death or imprisonment for more than one year if the Administrator finds that—

(A) an aircraft was used to commit, or facilitate the commission of, the offense; and

(B) the individual served as an airman, or was on the aircraft, in connection with committing, or facilitating the commission of, the offense.

(2) The Administrator shall issue an order revoking an airman certificate issued an individual under section 44703 of this title if the Administrator finds that—

(A) the individual knowingly carried out an activity punishable, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), by death or imprisonment for more than one year;

(B) an aircraft was used to carry out or facilitate the activity; and

(C) the individual served as an airman, or was on the aircraft, in connection with carrying out, or facilitating the carrying out of, the activity.

(3) The Administrator has no authority under paragraph (1) of this subsection to review whether an airman violated a law of the United States or a State related to a controlled substance.

(c) ADVICE TO HOLDERS AND OPPORTUNITY TO ANSWER.—Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator must—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator relies for the proposed revocation; and

(2) provide the holder of the certificate an opportunity to answer the charges and be heard why the certificate should not be revoked.

(d) APPEALS.—(1) An individual whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and an opportunity for a hearing on the record. When conducting the hearing, the Board is not bound by findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(2) When an individual files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.

(3) An individual substantially affected by an order of the Board under this subsection, or the Administrator when the Administrator decides that an order of the Board will have a significant adverse effect on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(e) ACQUITTAL.—(1) The Administrator may not revoke, and the Board may not affirm a revocation of, an airman certificate under subsection (b)(2) of this section on the basis of an activity described in subsection (b)(2)(A) if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked an airman certificate under this section because of an activity described in subsection (b)(2)(A) of this section, the Administrator shall reissue a certificate to the individual if—

(A) the individual otherwise satisfies the requirements for a certificate under section 44703 of this title; and

(B)(i) the individual subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; or

(ii) the conviction on which a revocation under subsection (b)(1) of this section is based is reversed.

(f) WAIVERS.—The Administrator may waive the requirement of subsection (b) of this section that an airman certificate of an individual be revoked if—

(1) a law enforcement official of the United States Government or of a State requests a waiver; and

(2) the Administrator decides that the waiver will facilitate law enforcement efforts.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1191.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44710(a)	49 App.:1429(c)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 609(c)(1), (2), (4); added Oct. 19, 1984, Pub. L. 98–499, § 2(a), 98 Stat. 2312, 2313.
44710(b)(1) ..	49 App.:1429(c)(1) (1st sentence).	
44710(b)(2) ..	49 App.:1429(c)(2) (1st sentence).	
44710(b)(3) ..	49 App.:1429(c)(1) (last sentence).	
44710(c)	49 App.:1429(c)(3) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 609(c)(3); added Oct. 19, 1984, Pub. L. 98–499, § 2(a), 98 Stat. 2312; Aug. 26, 1992, Pub. L. 102–345, § 3(b), 106 Stat. 926.
44710(d)	49 App.:1429(c)(3) (2d–last sentences).	
44710(e)(1) ..	49 App.:1429(c)(2) (last sentence).	
44710(e)(2) ..	49 App.:1422(b)(2)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 602(b)(2)(C); added Oct. 19, 1984, Pub. L. 98–499, § 3, 98 Stat. 2313.
44710(f)	49 App.:1429(c)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 609(c)(5); added Nov. 18, 1988, Pub. L. 100–690, § 7204(b), 102 Stat. 4425.

In subsection (b)(1) and (2), before each clause (A), the words ''of any person'' are omitted as surplus. The words ''issued . . . under section 44703 of this title'' are added for clarity.

In subsection (b)(1), the word ''offense'' is substituted for ''crime'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(2)(C), the words ''in connection with carrying out, or facilitating the carrying out of, the activity'' are substituted for ''in connection with such activity or the facilitation of such activity'' for consistency with the source provisions restated in paragraph (1)(B) of this subsection.

In subsection (d)(1), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g).

In subsection (e)(1), the words ''on appeal'' and ''contained'' are omitted as surplus.

In subsection (e)(2)(B)(i), the word ''contained'' is omitted as surplus.

In subsection (e)(2)(B)(ii), the words ''judgment of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 1133, 44701, 44703, 44711, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44711. Prohibitions and exemption

(a) PROHIBITIONS.—A person may not—

(1) operate a civil aircraft in air commerce without an airworthiness certificate in effect or in violation of a term of the certificate;

(2) serve in any capacity as an airman with respect to a civil aircraft, aircraft engine, propeller, or appliance used, or intended for use, in air commerce—

(A) without an airman certificate authorizing the airman to serve in the capacity for which the certificate was issued; or

(B) in violation of a term of the certificate or a regulation prescribed or order issued under section 44701(a) or (b) or any of sections 44702–44716 of this title;

(3) employ for service related to civil aircraft used in air commerce an airman who

does not have an airman certificate authorizing the airman to serve in the capacity for which the airman is employed;

(4) operate as an air carrier without an air carrier operating certificate or in violation of a term of the certificate;

(5) operate aircraft in air commerce in violation of a regulation prescribed or certificate issued under section 44701(a) or (b) or any of sections 44702–44716 of this title;

(6) operate a seaplane or other aircraft of United States registry on the high seas in violation of a regulation under section 3 of the International Navigational Rules Act of 1977 (33 U.S.C. 1602);

(7) violate a term of an air agency or production certificate or a regulation prescribed or order issued under section 44701(a) or (b) or any of sections 44702–44716 of this title related to the holder of the certificate;

(8) operate an airport without an airport operating certificate required under section 44706 of this title or in violation of a term of the certificate; or

(9) manufacture, deliver, sell, or offer for sale any aviation fuel or additive in violation of a regulation prescribed under section 44714 of this title.

(b) EXEMPTION.—On terms the Administrator of the Federal Aviation Administration prescribes as being in the public interest, the Administrator may exempt a foreign aircraft and airmen serving on the aircraft from subsection (a) of this section. However, an exemption from observing air traffic regulations may not be granted.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1193; Pub. L. 103–429, § 6(56), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44711(a)(1) ..	49 App.:1430(a)(1).	Aug. 23, 1958, Pub. L. 85–726, § 610(a)(1)–(5), (b), 72 Stat. 780.
44711(a)(2) ..	49 App.:1430(a)(2).	
44711(a)(3) ..	49 App.:1430(a)(3).	
44711(a)(4) ..	49 App.:1430(a)(4).	
44711(a)(5) ..	49 App.:1430(a)(5).	
44711(a)(6) ..	49 App.:1430(a)(6).	Aug. 23, 1958, Pub. L. 85–726, § 610(a)(6), 72 Stat. 780; May 21, 1970, Pub. L. 91–258, § 51(b)(3)(A), 84 Stat. 235.
44711(a)(7) ..	49 App.:1430(a)(7).	Aug. 23, 1958, Pub. L. 85–726, § 610(a)(7), 72 Stat. 780; May 21, 1970, Pub. L. 91–258, § 51(b)(3)(B), 84 Stat. 235; Dec. 31, 1970, Pub. L. 91–604, § 11(b)(2), 84 Stat. 1705.
44711(a)(8) ..	49 App.:1430(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 610(a)(8); added May 21, 1970, Pub. L. 91–258, § 51(b)(3)(C), 84 Stat. 235; Dec. 31, 1970, Pub. L. 91–604, § 11(b)(2), 84 Stat. 1705; restated Sept. 3, 1982, Pub. L. 97–248, § 525(d), 96 Stat. 697.
44711(a)(9) ..	49 App.:1430(a)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 610(a)(9); added Dec. 31, 1970, Pub. L. 91–604, § 11(b)(2), 84 Stat. 1705; Nov. 9, 1977, Pub. L. 95–163, § 15(b)(2), 91 Stat. 1283.
44711(b)	49 App.:1430(b).	

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

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

In subsection (a)(1) and (7), the words ''condition, or limitation'' are omitted as being included in ''term''.

In subsection (a)(1), the words ''without . . . in effect'' are substituted for ''for which there is not currently in effect an'' to eliminate unnecessary words.

In subsection (a)(2), (5), and (7), the word ''rule'' is omitted as being synonymous with ''regulations''.

In subsection (a)(2)(B), the word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(5) and (7), the words ''prescribed . . . issued'' are added for consistency in the revised title and with other titles of the Code.

In subsection (a)(5), the words ''of the Secretary of Transportation'' are omitted as surplus.

In subsection (a)(6), the words ''proclaimed by the President'' are omitted as surplus. The words ''section 3 of the International Navigational Rules Act of 1977 (33 U.S.C. 1602)'' are substituted for ''section 143 of title 33'' because the section was part of the Act of October 11, 1951 (ch. 495, 65 Stat. 406), that was repealed by section 3 of the Act of September 24, 1963 (Public Law 88–131, 77 Stat. 194), and replaced by 33:ch. 21. Chapter 21 was repealed by section 10 of the International Navigational Rules Act of 1977 (Public Law 95–75, 91 Stat. 311) and replaced by 33:1601–1608.

In subsection (a)(7), the words ''holding . . . such certificate'' are omitted because of the restatement.

In subsection (a)(8), the words ''by the Administrator'' are omitted as surplus.

In subsection (b), the word ''Administrator'' in section 610(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 780) is retained on authority of 49:106(g). The words ''to the extent, and . . . and conditions'' and ''by such airmen'' are omitted as surplus.

PUB. L. 103–429

This amends 49:44711(a)(2)(B), (5), and (7) and 46310(b) to correct erroneous cross-references.

AMENDMENTS

1994—Subsec. (a)(2)(B), (5), (7). Pub. L. 103–429 inserted ''any of sections'' before ''44702–44716''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44712. Emergency locator transmitters

(a) INSTALLATION.—An emergency locator transmitter must be installed on a fixed-wing powered civil aircraft for use in air commerce.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply to—

(1) turbojet-powered aircraft;

(2) aircraft when used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

(3) aircraft when used in training operations conducted entirely within a 50 mile radius of the airport from which the training operations begin;

(4) aircraft when used in flight operations related to design and testing, the manufacture, preparation, and delivery of the aircraft, or the aerial application of a substance for an agricultural purpose;

(5) aircraft holding certificates from the Administrator of the Federal Aviation Administration for research and development;

(6) aircraft when used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and

(7) aircraft equipped to carry only one individual.

(c) REMOVAL.—The Administrator shall prescribe regulations specifying the conditions under which an aircraft subject to subsection (a) of this section may operate when its emergency locator transmitter has been removed for inspection, repair, alteration, or replacement.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1194.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44712(a)	49 App.:1421(d)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(d)(1); added Dec. 29, 1970, Pub. L. 91–596, § 31, 84 Stat. 1619; restated Jan. 2, 1974, Pub. L. 93–239, § 4, 87 Stat. 1048; Nov. 9, 1977, Pub. L. 95–163, § 15(a)(1), 91 Stat. 1283.
44712(b)	49 App.:1421(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(d)(2); added Dec. 29, 1970, Pub. L. 91–596, § 31, 84 Stat. 1619; restated Jan. 2, 1974, Pub. L. 93–239, § 4, 87 Stat. 1048.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
44712(c)	49 App.:1421(d)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(d)(3); added Nov. 9, 1977, Pub. L. 95–163, § 15(a)(2), 91 Stat. 1283.

In subsection (a), the words ''Except with respect to aircraft described in paragraph (2) of this subsection and except as provided in paragraph (3) of this subsection'' are omitted as surplus. The words ''minimum standards pursuant to this section shall include a requirement that'', the text of 49 App.:1421(d)(1)(A), and the words ''after three years and six months following such date'' are omitted as executed.

In subsection (b), the word ''used'' is substituted for ''engaged'' for consistency. In clause (3), the word ''training'' is substituted for ''local flight'' for consistency. In clause (4), the words ''chemicals and other'' are omitted as surplus. In clause (5), the word ''purposes'' is omitted as surplus.

In subsection (c), the words ''prescribe regulations'' are substituted for ''shall issue regulations . . . as he prescribes in such regulations'' to eliminate unnecessary words. The words ''such limitations and'' and ''from such aircraft'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44713. Inspection and maintenance

(a) GENERAL EQUIPMENT REQUIREMENTS.—An air carrier shall make, or cause to be made, any inspection, repair, or maintenance of equipment used in air transportation as required by this part or regulations prescribed or orders issued by the Administrator of the Federal Aviation Administration under this part. A person operating, inspecting, repairing, or maintaining the equipment shall comply with those requirements, regulations, and orders.

(b) DUTIES OF INSPECTORS.—The Administrator of the Federal Aviation Administration shall employ inspectors who shall—

(1) inspect aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture and when in use by an air carrier in air transportation, to enable the Administrator to decide whether the aircraft, aircraft engines, propellers, or appliances are in safe condition and maintained properly; and

(2) advise and cooperate with the air carrier during that inspection and maintenance.

(c) UNSAFE AIRCRAFT, ENGINES, PROPELLERS, AND APPLIANCES.—When an inspector decides that an aircraft, aircraft engine, propeller, or appliance is not in condition for safe operation, the inspector shall notify the air carrier in the form and way prescribed by the Administrator of the Federal Aviation Administration. For 5 days after the carrier is notified, the aircraft, engine, propeller, or appliance may not be used in air transportation or in a way that endangers air transportation unless the Administrator or the inspector decides the aircraft, engine, propeller, or appliance is in condition for safe operation.

(d) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for processing forms for major repairs or alterations to fuel tanks and fuel systems of aircraft not used to provide air transportation that are necessary to make the system more effective in serving the needs of users of the system, including officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The modifications shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) the lack of a special identification feature to allow the forms to be distinguished easily from other major repair and alteration forms.

(B) the excessive period of time required to receive the forms at the Airmen and Aircraft Registry of the Administration.

(C) the backlog of forms waiting for processing at the Registry.

(D) the lack of ready access by law enforcement officials to information contained on the forms.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, rep-

resentatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1194.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44713(a)	49 App.:1425(a).	Aug. 23, 1958, Pub. L. 85–726, § 605(a), (b), 72 Stat. 778.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44713(b)	49 App.:1425(b) (1st sentence).	
	49 App.:1655(c)(1).	
44713(c)	49 App.:1425(b) (last sentence).	
	49 App.:1655(c)(1).	
44713(d)(1) ..	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
	49 App.:1425(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 605(c); added Nov. 18, 1988, Pub. L. 100–690, § 7206(a), 102 Stat. 4426.
44713(d)(2) ..	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7207(a) (1st sentence), (b), 102 Stat. 4427.

In subsections (a)–(c), the word ''Administrator'' in section 605(a) and (b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 778) is retained on authority of 49:106(g).

In subsection (a), the word ''overhaul'' is omitted as being included in ''repair''. The word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The words ''A person operating, inspecting, overhauling, or maintaining the equipment shall comply with those requirements, regulations, and orders'' are substituted for 49 App.:1425(a) (last sentence) to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''be charged with the duty . . . of'' are omitted as surplus. In clause (1), the words ''in use'' are substituted for ''used by an air carrier in air transportation'' to eliminate unnecessary words. The words ''as may be necessary'' and ''for operation in air transportation'' are omitted as surplus.

In subsection (c), the words ''in the performance of his duty'', ''used or intended to be used by any air carrier in air transportation'', and ''a period of'' are omitted as surplus.

In subsection (d)(1), before clause (A), the words ''not used to provide air transportation'' are substituted for section 7214 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat. 4434) because of the restatement.

In subsection (d)(2), the words ''Not later than September 18, 1989'' and ''final'' are omitted as obsolete. The words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words ''Commissioner of Customs'' are substituted for ''United States Customs Service'' because of 19:2071.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44714. Aviation fuel standards

The Administrator of the Federal Aviation Administration shall prescribe—

(1) standards for the composition or chemical or physical properties of an aircraft fuel or fuel additive to control or eliminate aircraft emissions the Administrator of the Environmental Protection Agency decides under section 231 of the Clean Air Act (42 U.S.C. 7571) endanger the public health or welfare; and

(2) regulations providing for carrying out and enforcing those standards.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1195.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44714	49 App.:1421(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(e); added Dec. 31, 1970, Pub. L. 91–604, § 11(b)(1), 84 Stat. 1705; Nov. 9, 1977, Pub. L. 95–163, § 15(b)(1), 91 Stat. 1283.

In this section, before clause (1), the words ''and from time to time revise'' are omitted as surplus. In clause (1), the words ''establishing'' and ''the purpose of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44715. Controlling aircraft noise and sonic boom

(a) STANDARDS AND REGULATIONS.—(1) To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration shall prescribe—

(A) standards to measure aircraft noise and sonic boom; and

(B) regulations to control and abate aircraft noise and sonic boom.

(2) The Administrator of the Federal Aviation Administration may prescribe standards and regulations under this subsection only after consulting with the Administrator of the Environmental Protection Agency. The standards and regulations shall be applied when issuing, amending, modifying, suspending, or revoking a certificate authorized under this chapter.

(3) An original type certificate may be issued under section 44704(a) of this title for an aircraft for which substantial noise abatement can be achieved only after the Administrator of the Federal Aviation Administration prescribes standards and regulations under this section that apply to that aircraft.

(b) CONSIDERATIONS AND CONSULTATION.—When prescribing a standard or regulation under this section, the Administrator of the Federal Aviation Administration shall—

(1) consider relevant information related to aircraft noise and sonic boom;

(2) consult with appropriate departments, agencies, and instrumentalities of the United States Government and State and interstate authorities;

(3) consider whether the standard or regulation is consistent with the highest degree of safety in air transportation or air commerce in the public interest;

(4) consider whether the standard or regulation is economically reasonable, technologically practicable, and appropriate for the

applicable aircraft, aircraft engine, appliance, or certificate; and

(5) consider the extent to which the standard or regulation will carry out the purposes of this section.

(c) PROPOSED REGULATIONS OF ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency shall submit to the Administrator of the Federal Aviation Administration proposed regulations to control and abate aircraft noise and sonic boom (including control and abatement through the use of the authority of the Administrator of the Federal Aviation Administration) that the Administrator of the Environmental Protection Agency considers necessary to protect the public health and welfare. The Administrator of the Federal Aviation Administration shall consider those proposed regulations and shall publish them in a notice of proposed regulations not later than 30 days after they are received. Not later than 60 days after publication, the Administrator of the Federal Aviation Administration shall begin a hearing at which interested persons are given an opportunity for oral and written presentations. Not later than 90 days after the hearing is completed and after consulting with the Administrator of the Environmental Protection Agency, the Administrator of the Federal Aviation Administration shall—

(1) prescribe regulations as provided by this section—

(A) substantially the same as the proposed regulations submitted by the Administrator of the Environmental Protection Agency; or

(B) that amend the proposed regulations; or

(2) publish in the Federal Register—

(A) a notice that no regulation is being prescribed in response to the proposed regulations of the Administrator of the Environmental Protection Agency;

(B) a detailed analysis of, and response to, all information the Administrator of the Environmental Protection Agency submitted with the proposed regulations; and

(C) a detailed explanation of why no regulation is being prescribed.

(d) CONSULTATION AND REPORTS.—(1) If the Administrator of the Environmental Protection Agency believes that the action of the Administrator of the Federal Aviation Administration under subsection (c)(1)(B) or (2) of this section does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations in subsection (b) of this section, the Administrator of the Environmental Protection Agency shall consult with the Administrator of the Federal Aviation Administration and may request a report on the advisability of prescribing the regulation as originally proposed. The request, including a detailed statement of the information on which the request is based, shall be published in the Federal Register.

(2) The Administrator of the Federal Aviation Administration shall report to the Administrator of the Environmental Protection Agency within the time, if any, specified in the request. However, the time specified must be at least 90 days after the date of the request. The report shall—

(A) be accompanied by a detailed statement of the findings of the Administrator of the Federal Aviation Administration and the reasons for the findings;

(B) identify any statement related to an action under subsection (c) of this section filed under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(C) specify whether and where that statement is available for public inspection; and

(D) be published in the Federal Register unless the request proposes specific action by the Administrator of the Federal Aviation Administration and the report indicates that action will be taken.

(e) SUPPLEMENTAL REPORTS.—The Administrator of the Environmental Protection Agency may request the Administrator of the Federal Aviation Administration to file a supplemental report if the report under subsection (d) of this section indicates that the proposed regulations under subsection (c) of this section, for which a statement under section 102(2)(C) of the Act (42 U.S.C. 4332(2)(C)) is not required, should not be prescribed. The supplemental report shall be published in the Federal Register within the time the Administrator of the Environmental Protection Agency specifies. However, the time specified must be at least 90 days after the date of the request. The supplemental report shall contain a comparison of the environmental effects, including those that cannot be avoided, of the action of the Administrator of the Federal Aviation Administration and the proposed regulations of the Administrator of the Environmental Protection Agency.

(f) EXEMPTIONS.—An exemption from a standard or regulation prescribed under this section may be granted only if, before granting the exemption, the Administrator of the Federal Aviation Administration consults with the Administrator of the Environmental Protection Agency. However, if the Administrator of the Federal Aviation Administration finds that safety in air transportation or air commerce requires an exemption before the Administrator of the Environmental Protection Agency can be consulted, the exemption may be granted. The Administrator of the Federal Aviation Administration shall consult with the Administrator of the Environmental Protection Agency as soon as practicable after the exemption is granted.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1196.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44715(a)(1), (2).	49 App.:1431(a), (b)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 611(a), (b), (d); added July 21, 1968, Pub. L. 90–411, § 1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, § 7(b), 86 Stat. 1239, 1241.
44715(a)(3) ..	49 App.:1431(b)(2).	
44715(b)	49 App.:1431(d).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44715(c)	49 App.:1431(c)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 611(c); added July 21, 1968, Pub. L. 90–411, § 1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, § 7(b), 86 Stat. 1240; Nov. 8, 1978, Pub. L. 95–609, § 3, 92 Stat. 3080.
44715(d)	49 App.:1431(c)(2).	
44715(e)	49 App.:1431(c)(3).	
44715(f)	49 App.:1431(b)(1) (last sentence).	

In subsection (a)(1), before clause (A), the text of 49 App.:1431(a) is omitted because the revised section identifies the appropriate Administrator each time the Administrator is mentioned. The words ''present and future'' and ''and amend'' are omitted as surplus. In clause (B), the words ''as the FAA may find necessary to provide'' are omitted as surplus.

In subsection (a)(2), the word ''only'' is added for clarity.

Subsection (a)(3) is substituted for 49 App.:1431(b)(2) to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''and amending'' are omitted as surplus. In clause (1), the words ''available . . . including the results of research, development, testing, and evaluation activities conducted pursuant to this chapter and the Department of Transportation Act'' are omitted as surplus. In clause (2), the words ''departments, agencies, and instrumentalities of the United States Government and State and interstate authorities'' are substituted for ''Federal, State, and interstate agencies'' for consistency in the revised title and with other titles of the United States Code. The words ''as he deems'' are omitted as surplus. In clauses (3) and (4), the word ''proposed'' is omitted as surplus. In clause (4), the word ''applicable'' is substituted for ''particular type of . . . to which it will apply'' to eliminate unnecessary words. In clause (5), the words ''contribute to'' are omitted as surplus.

In subsection (c), before clause (1), the words ''Not earlier than the date of submission of the report required by section 4906 of title 42'' are omitted as executed. The words ''regulatory . . . over air commerce or transportation or over aircraft or airport operations'' and ''submitted by the EPA under this paragraph'' are omitted as surplus. The word ''regulations'' is substituted for ''rulemaking'' for consistency in the revised title. The words ''after they are received'' are substituted for ''of the date of its submission to the FAA'' to eliminate unnecessary words. The words ''of data, views, and arguments'' are omitted as surplus. In clause (1), the words ''in accordance with subsection (b) of this section'' are omitted because of the restatement. In clause (2)(B), the words ''documentation or other'' are omitted as surplus.

In subsection (d)(1), the words ''listed'' and ''the FAA to review, and . . . to EPA . . . by EPA'' are omitted as surplus.

In subsection (d)(2), before clause (A), the words ''shall complete the review requested and'' are omitted as surplus. In clause (B), the words ''of the FAA'' are omitted as surplus.

In subsection (e), the words ''actually taken . . . in response to EPA's proposed regulations'' are omitted as surplus.

In subsection (f), the words ''under any provision of this chapter'' and ''that . . . be granted'' are omitted as surplus. The words ''the exemption may be granted'' are added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44709, 44711, 45302, 46301, 46310, 46316, 47531 of this title; title 42 sections 4903, 4911, 4913, 4915.

§ 44716. Collision avoidance systems

(a) DEVELOPMENT AND CERTIFICATION.—The Administrator of the Federal Aviation Administration shall—

(1) complete the development of the collision avoidance system known as TCAS–II so that TCAS–II can operate under visual and instrument flight rules and can be upgraded to the performance standards applicable to the collision avoidance system known as TCAS–III;

(2) develop and carry out a schedule for developing and certifying TCAS–II that will result in certification not later than June 30, 1989; and

(3) submit to Congress monthly reports on the progress being made in developing and certifying TCAS–II.

(b) INSTALLATION AND OPERATION.—The Administrator shall require by regulation that, not later than 30 months after the date certification is made under subsection (a)(2) of this section, TCAS–II be installed and operated on each civil aircraft that has a maximum passenger capacity of at least 31 seats and is used to provide air transportation of passengers, including intrastate air transportation of passengers. The Administrator may extend the deadline in this subsection for not more than 2 years if the Administrator finds the extension is necessary to promote—

(1) a safe and orderly transition to the operation of a fleet of civil aircraft described in this subsection equipped with TCAS–II; or

(2) other safety objectives.

(c) OPERATIONAL EVALUATION.—Not later than December 30, 1990, the Administrator shall establish a one-year program to collect and assess safety and operational information from civil aircraft equipped with TCAS–II for the operational evaluation of TCAS–II. The Administrator shall encourage foreign air carriers that operate civil aircraft equipped with TCAS–II to participate in the program.

(d) AMENDING SCHEDULE FOR WINDSHEAR EQUIPMENT.—The Administrator shall consider the feasibility and desirability of amending the schedule for installing airborne low-altitude windshear equipment to make the schedule compatible with the schedule for installing TCAS–II.

(e) DEADLINE FOR DEVELOPMENT AND CERTIFICATION.—(1) The Administrator shall complete developing and certifying TCAS–III as soon as possible.

(2) Necessary amounts may be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out this subsection.

(f) INSTALLING AND USING TRANSPONDERS.—The Administrator shall prescribe regulations requiring that, not later than December 30, 1990, operating transponders with automatic altitude reporting capability be installed and used for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft. The Administrator may provide for access to that airspace (except terminal control areas and airport radar service areas) by nonequipped aircraft if the Administrator finds the access will not interfere with the normal traffic flow.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1198.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44716(a)	49 App.:1421(f)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(f); added Dec. 30, 1987, Pub. L. 100–223, § 203(b), 101 Stat. 1518; Dec. 15, 1989, Pub. L. 101–236, § 2, 103 Stat. 2060.
44716(b)	49 App.:1421(f)(2), (4).	
44716(c)	49 App.:1421(f)(3).	
44716(d)	49 App.:1421(f)(5).	
44716(e)	49 App.:1421 (note).	Dec. 30, 1987, Pub. L. 100–223, § 203(d), 101 Stat. 1519.
44716(f)	49 App.:1421(f)(6).	

In subsection (c), the words ''In conducting the program'' are omitted as surplus.

In subsection (e)(1), the word ''research'' is omitted as included in ''developing''.

In subsection (e)(2), the words ''established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502)'' are added for consistency in the revised title.

In subsection (f), the words ''Not later than 6 months after December 30, 1987, the Administrator shall promulgate a final rule'' and ''Such final rule'' are omitted as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46301, 46310, 46316, 47531 of this title.

§ 44717. Aging aircraft

(a) INSPECTIONS AND REVIEWS.—The Administrator of the Federal Aviation Administration shall prescribe regulations that ensure the continuing airworthiness of aging aircraft. The regulations prescribed under subsection (a) of this section—

(1) at least shall require the Administrator to make inspections, and review the maintenance and other records, of each aircraft an air carrier uses to provide air transportation that the Administrator decides may be necessary to enable the Administrator to decide whether the aircraft is in safe condition and maintained properly for operation in air transportation;

(2) at least shall require an air carrier to demonstrate to the Administrator, as part of the inspection, that maintenance of the aircraft's age-sensitive parts and components has been adequate and timely enough to ensure the highest degree of safety;

(3) shall require the air carrier to make available to the Administrator the aircraft and any records about the aircraft that the Administrator requires to carry out a review; and

(4) shall establish procedures to be followed in carrying out an inspection.

(b) WHEN AND HOW INSPECTIONS AND REVIEWS SHALL BE CARRIED OUT.—(1) Inspections and reviews required under subsection (a)(1) of this section shall be carried out as part of each heavy maintenance check of the aircraft conducted after the 14th year in which the aircraft has been in service.

(2) Inspections under subsection (a)(1) of this section shall be carried out as provided under section 44701(a)(2)(B) and (C) of this title.

(c) AIRCRAFT MAINTENANCE SAFETY PROGRAMS.—The Administrator shall establish—

(1) a program to verify that air carriers are maintaining their aircraft according to maintenance programs approved by the Administrator;

(2) a program—

(A) to provide inspectors and engineers of the Administration with training necessary to conduct auditing inspections of aircraft operated by air carriers for corrosion and metal fatigue; and

(B) to enhance participation of those inspectors and engineers in those inspections; and

(3) a program to ensure that air carriers demonstrate to the Administrator their commitment and technical competence to ensure the airworthiness of aircraft that the carriers operate.

(d) FOREIGN AIR TRANSPORTATION.—(1) The Administrator shall take all possible steps to encourage governments of foreign countries and relevant international organizations to develop standards and requirements for inspections and reviews that—

(A) will ensure the continuing airworthiness of aging aircraft used by foreign air carriers to provide foreign air transportation to and from the United States; and

(B) will provide passengers of those foreign air carriers with the same level of safety that will be provided passengers of air carriers by carrying out this section.

(2) Not later than September 30, 1994, the Administrator shall report to Congress on carrying out this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1199.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44717(a)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, §§ 402(a), (b)(1), (c)–(e), 405, 105 Stat. 951, 952.
44717(b)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, § 402(b)(2), (3), 105 Stat. 951.
44717(c)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, § 403, 105 Stat. 952.
44717(d)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, § 404, 105 Stat. 952.

In subsections (a) and (c), before clause (1), the words ''Not later than 180 days after the date of the enactment of this title'' are omitted as obsolete.

In subsection (a), before clause (1), the text of section 405 of the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102–143, 105 Stat. 952) is omitted as surplus because the complete name of the Administrator of the Federal Aviation Administration is used the first time the term appears in a section. The word ''regulations'' is substituted for ''rule'' because the terms are synonymous. In clauses (2)–(4), the words ''required by the rule'' are omitted as surplus. In clause (2), the words ''structure, skin, and other'' are omitted as surplus. In clause (3), the words ''inspection, maintenance, and other'' are omitted as surplus.

In subsection (c)(1), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' for consistency in the revised title.

In subsection (d)(1), before clause (A), the words ''governments of foreign countries'' are substituted for ''foreign governments'' for consistency in the revised title and with other titles of the United States Code.

§ 44718. Structures interfering with air commerce

(a) NOTICE.—By regulation or by order when necessary, the Secretary of Transportation shall require a person to give adequate public notice, in the form and way the Secretary prescribes, of the construction, alteration, establishment, or expansion, or the proposed construction, alteration, establishment, or expansion, of a structure or sanitary landfill when the notice will promote—

(1) safety in air commerce; and

(2) the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

(b) STUDIES.—(1) Under regulations prescribed by the Secretary, if the Secretary decides that constructing or altering a structure may result in an obstruction of the navigable airspace or an interference with air navigation facilities and equipment or the navigable airspace, the Secretary shall conduct an aeronautical study to decide the extent of any adverse impact on the safe and efficient use of the airspace, facilities, or equipment. In conducting the study, the Secretary shall consider factors relevant to the efficient and effective use of the navigable airspace, including—

(A) the impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(B) the impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(C) the impact on existing public-use airports and aeronautical facilities;

(D) the impact on planned public-use airports and aeronautical facilities; and

(E) the cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures.

(2) On completing the study, the Secretary shall issue a report disclosing completely the extent of the adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from constructing or altering the structure.

(c) BROADCAST APPLICATIONS AND TOWER STUDIES.—In carrying out laws related to a broadcast application and conducting an aeronautical study related to broadcast towers, the Administrator of the Federal Aviation Administration and the Federal Communications Commission shall take action necessary to coordinate efficiently—

(1) the receipt and consideration of, and action on, the application; and

(2) the completion of any associated aeronautical study.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1200.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44718(a)	49 App.:1501(a).	Aug. 23, 1958, Pub. L. 85–726, § 1101, 72 Stat. 797; restated Dec. 30, 1987, Pub. L. 100–223, § 206 (less (b)), 101 Stat. 1521; Oct. 31, 1992, Pub. L. 102–581, § 203(a), 106 Stat. 4890.
44718(b)	49 App.:1501(b).	
44718(c)	49 App.:1501(c).	

In subsection (a), before clause (1), the words ''(hereinafter in this section referred to as the 'Secretary')'' and ''where necessary'' are omitted as surplus.

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 44719. Standards for navigational aids

The Secretary of Transportation shall prescribe regulations on standards for installing navigational aids, including airport control towers. For each type of facility, the regulations shall consider at a minimum traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1201.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44719	49 App.:1348 (note).	Dec. 30, 1987, Pub. L. 100–223, § 308, 101 Stat. 1526.

The words ''Not later than December 31, 1988'' are omitted as obsolete.

§ 44720. Meteorological services

(a) RECOMMENDATIONS.—The Administrator of the Federal Aviation Administration shall make recommendations to the Secretary of Commerce on providing meteorological services necessary for the safe and efficient movement of aircraft in air commerce. In providing the services, the Secretary shall cooperate with the Administrator and give complete consideration to those recommendations.

(b) PROMOTING SAFETY AND EFFICIENCY.—To promote safety and efficiency in air navigation to the highest possible degree, the Secretary shall—

(1) observe, measure, investigate, and study atmospheric phenomena, and maintain meteorological stations and offices, that are necessary or best suited for finding out in advance information about probable weather conditions;

(2) provide reports to the Administrator to persons engaged in civil aeronautics that are designated by the Administrator and to other persons designated by the Secretary in a way and with a frequency that best will result in safety in, and facilitating, air navigation;

(3) cooperate with persons engaged in air commerce in meteorological services, main-

tain reciprocal arrangements with those persons in carrying out this clause, and collect and distribute weather reports available from aircraft in flight;

(4) maintain and coordinate international exchanges of meteorological information required for the safety and efficiency of air navigation;

(5) in cooperation with other departments, agencies, and instrumentalities of the United States Government, meteorological services of foreign countries, and persons engaged in air commerce, participate in developing an international basic meteorological reporting network, including the establishment, operation, and maintenance of reporting stations on the high seas, in polar regions, and in foreign countries;

(6) coordinate meteorological requirements in the United States to maintain standard observations, to promote efficient use of facilities, and to avoid duplication of services unless the duplication tends to promote the safety and efficiency of air navigation; and

(7) promote and develop meteorological science and foster and support research projects in meteorology through the use of private and governmental research facilities and provide for publishing the results of the projects unless publication would not be in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1201.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44720(a)	49 App.:1351.	Aug. 23, 1958, Pub. L. 85–726, §§310, 803, 72 Stat. 751, 783.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44720(b)	49 App.:1463. 49 App.:1655(c)(1)	

In subsection (b), the title ''Secretary'' [of Commerce] is substituted for ''Chief of the Weather Bureau'' in section 803 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 783) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318). Before clause (1), the words ''In order'' and ''in addition to any other functions or duties pertaining to weather information for other purposes'' are omitted as surplus. In clause (2), the words ''forecasts, warnings, and advices'' are omitted as being included in ''reports''. In clause (3), the words ''or employees thereof'' and ''establish and'' are omitted as surplus. The words ''with those persons'' are added for clarity. In clause (5), the words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''governmental agencies of the United States'' for consistency in the revised title and with other titles of the United States Code.

§ 44721. Aeronautical maps and charts

(a) PUBLICATION.—(1) The Administrator of the Federal Aviation Administration may arrange for the publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation, using the facilities and assistance of departments, agencies, and instrumentalities of the United States Government as far as practicable.

(2) In carrying out paragraph (1) of this subsection, the Administrator shall update and arrange for the publication of clearly defined routes for navigating through a complex terminal airspace area and to and from an airport located in such an area, if the Administrator decides that publication of the routes would promote safety in air navigation. The routes shall be developed in consultation with pilots and other users of affected airports and shall be for the optional use of pilots operating under visual flight rules.

(b) INDEMNIFICATION.—The Government shall make an agreement to indemnify any person that publishes a map or chart for use in aeronautics from any part of a claim arising out of the depiction by the person on the map or chart of a defective or deficient flight procedure or airway if the flight procedure or airway was—

(1) prescribed by the Administrator;

(2) depicted accurately on the map or chart; and

(3) not obviously defective or deficient.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1202.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44721(a)(1) ..	49 App.:1348(b) (1st sentence cl. (3)).	Aug. 23, 1958, Pub. L. 85–726, §307(b) (1st sentence cl. (3)), 72 Stat. 750.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44721(a)(2) ..	49 App.:1348(b) (3d, last sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 749, §307(b) (3d, last sentences); added Oct. 31, 1992, Pub. L. 102–581, §125, 106 Stat. 4885.
44721(b)	49 App.:1519.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1118; added Dec. 19, 1985, Pub. L. 99–190, §328(a), 99 Stat. 1289.

In subsection (a)(1), the word ''Administrator'' in section 307(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750) is retained on authority of 49:106(g). The words ''within the limits of available appropriations made by the Congress'' are omitted as surplus. The words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''existing agencies of the Government'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), the words ''Notwithstanding the provisions of section 1341 of title 31 or any other provision of law'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 44722. Aircraft operations in winter conditions

The Administrator of the Federal Aviation Administration shall prescribe regulations requiring procedures to improve safety of aircraft operations during winter conditions. In deciding on the procedures to be required, the Administrator shall consider at least aircraft and air traffic control modifications, the availability of different types of deicing fluids (considering their efficacy and environmental limitations), the types of deicing equipment available, and the feasibility and desirability of establishing timeframes within which deicing must occur under certain types of inclement weather.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1202.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44722	49:1421 (note).	Oct. 31, 1992, Pub. L. 102–581, § 124, 106 Stat. 4885.

The words ''Before November 1, 1992'' are omitted as obsolete. The words ''prescribe regulations requiring'' are substituted for ''require, by regulation'', and the words ''other factors the Administrator considers appropriate'' are substituted for ''among other things'', for consistency in the revised title.

§ 44723. Annual report

Not later than January 1 of each year, the Secretary of Transportation shall submit to Congress a comprehensive report on the safety enforcement activities of the Federal Aviation Administration during the fiscal year ending the prior September 30th. The report shall include—

(1) a comparison of end-of-year staffing levels by operations, maintenance, and avionics inspector categories to staffing goals and a statement on how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance, and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs by field location and, for any field location completing less than 80 percent of its planned number of inspections, an explanation of why annual work program plans were not met;

(6) a statement of the adequacy of Administration internal management controls available to ensure that field managers comply with Administration policies and procedures, including those on inspector priorities, district office coordination, minimum inspection standards, and inspection followup;

(7) the status of efforts made by the Administration to update inspector guidance documents and regulations to include technological, management, and structural changes taking place in the aviation industry, including a listing of the backlog of all proposed regulatory amendments;

(8) a list of the specific operational measures of effectiveness used to evaluate—

(A) the progress in meeting program objectives;

(B) the quality of program delivery; and

(C) the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the 2 prior fiscal years, including the total initial and final penalties imposed, the total number of dollars collected, the range of dollar amounts collected, the average case processing time, and the range of case processing time;

(10) a schedule showing the number of enforcement actions taken (except civil penalties) during the 2 prior fiscal years, including the total number of violations cited, and the number of cited violation cases closed by certificate suspensions, certificate revocations, warnings, and no action taken; and

(11) schedules showing the safety record of the aviation industry during the fiscal year for air carriers and general aviation, including—

(A) the number of inspections performed when deficiencies were identified compared with inspections when no deficiencies were found;

(B) the frequency of safety deficiencies for each air carrier; and

(C) an analysis based on data of the general status of air carrier and general aviation compliance with aviation regulations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1202.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44723	49:308 (note).	Dec. 22, 1987, Pub. L. 100–202, § 317(a), 101 Stat. 1329–380. Sept. 30, 1988, Pub. L. 100–457, § 317(a), 102 Stat. 2148.

In clauses (4) and (7), the word ''regulations'' is substituted for ''Federal regulations'' for consistency in the revised title.

In clause (5), the words ''by field location'' are substituted for ''disaggregated to the field locations'' for clarity.

In clause (8), before subclause (A), the words '' 'best proxies' standing between the ultimate goal of accident prevention and ongoing program activities'' are omitted as surplus.

In clause (9), the words ''penalties imposed'' are substituted for ''assessments'' for consistency in the revised title and with other titles of the United States Code.

In clause (11)(C), the words ''aviation regulations'' are substituted for ''Federal Aviation Regulations'' for consistency in the revised title.

CHAPTER 449—SECURITY

SUBCHAPTER I—REQUIREMENTS

Sec.
44901. Screening passengers and property.
44902. Refusal to transport passengers and property.
44903. Air transportation security.
44904. Domestic air transportation system security.
44905. Information about threats to civil aviation.
44906. Foreign air carrier security programs.
44907. Security standards at foreign airports.
44908. Travel advisory and suspension of foreign assistance.
44909. Passenger manifests.
44910. Agreements on aircraft sabotage, aircraft hijacking, and airport security.
44911. Intelligence.
44912. Research and development.
44913. Explosive detection.

Sec.
44914. Airport construction guidelines.
44915. Exemptions.

SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

44931. Director of Intelligence and Security.
44932. Assistant Administrator for Civil Aviation Security.
44933. Federal Security Managers.
44934. Foreign Security Liaison Officers.
44935. Employment standards and training.
44936. Employment investigations and restrictions.
44937. Prohibition on transferring duties and powers.
44938. Reports.

SUBCHAPTER I—REQUIREMENTS

§ 44901. Screening passengers and property

(a) GENERAL REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall prescribe regulations requiring screening of all passengers and property that will be carried in a cabin of an aircraft in air transportation or intrastate air transportation. The screening must take place before boarding and be carried out by a weapon-detecting facility or procedure used or operated by an employee or agent of an air carrier, intrastate air carrier, or foreign air carrier.

(b) AMENDING REGULATIONS.—Notwithstanding subsection (a) of this section, the Administrator may amend a regulation prescribed under subsection (a) to require screening only to ensure security against criminal violence and aircraft piracy in air transportation and intrastate air transportation.

(c) EXEMPTIONS AND ADVISING CONGRESS ON REGULATIONS.—The Administrator—

(1) may exempt from this section air transportation operations, except scheduled passenger operations of an air carrier providing air transportation under a certificate issued under section 41102 of this title or a permit issued under section 41302 of this title; and

(2) shall advise Congress of a regulation to be prescribed under this section at least 30 days before the effective date of the regulation, unless the Administrator decides an emergency exists requiring the regulation to become effective in fewer than 30 days and notifies Congress of that decision.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1204.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44901(a)	49 App.:1356(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 315(a) (1st, 2d sentences, 3d sentence 19th–last words); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 415; Aug. 8, 1985, Pub. L. 99–83, § 551(b)(1), 99 Stat. 225.
44901(b)	49 App.:1356(a) (2d sentence).	
44901(c)(1) ..	49 App.:1356(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 315(c); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 415; Nov. 16, 1990, Pub. L. 101–604, § 102(a), 104 Stat. 3068.
44901(c)(2) ..	49 App.:1356(a) (3d sentence 19th–last words).	

In subsection (a), the words ''or continue in effect reasonable'', ''intended'', and ''the aircraft for such transportation'' are omitted as surplus.

In subsection (b), the words ''Notwithstanding subsection (a) of this section'' are added for clarity. The words ''One year after August 5, 1974, or after the effective date of such regulations, whichever is later'' are omitted as executed. The words ''alter or'', ''a continuation of'', ''the extent deemed necessary to'', and ''acts of'' are omitted as surplus.

In subsection (c)(1), the words ''in whole or in part'' and ''those'' are omitted as surplus. The word ''providing'' is substituted for ''engaging in'' for consistency in the revised title. The words ''interstate, overseas, or foreign'' are omitted because of the definition of ''air transportation'' in section 40102(a) of the revised title. The words ''of public convenience and necessity'', ''by the Civil Aeronautics Board'', ''foreign air carrier'', and ''by the Board'' are omitted as surplus.

In subsection (c)(2), the words ''or amendments thereto'' and ''or amendments'' are omitted as surplus.

INSTALLATION AND USE OF EXPLOSIVE DETECTION EQUIPMENT

Pub. L. 101–45, title I, June 30, 1989, 103 Stat. 110, provided in part that: ''Not later than thirty days after the date of the enactment of this Act [June 30, 1989], the Federal Aviation Administrator shall initiate action, including such rulemaking or other actions as necessary, to require the use of explosive detection equipment that meets minimum performance standards requiring application of technology equivalent to or better than thermal neutron analysis technology at such airports (whether located within or outside the United States) as the Administrator determines that the installation and use of such equipment is necessary to ensure the safety of air commerce. The Administrator shall complete these actions within sixty days of enactment of this Act''.

RESEARCH AND DEVELOPMENT OF IMPROVED AIRPORT SECURITY SYSTEMS

Pub. L. 100–649, § 2(d), Nov. 10, 1988, 102 Stat. 3817, provided that: ''The Administrator of the Federal Aviation Administration shall conduct such research and development as may be necessary to improve the effectiveness of airport security metal detectors and airport security x-ray systems in detecting firearms that, during the 10-year period beginning on the effective date of this Act [see Effective Date of 1988 Amendment; Sunset Provision note set out under section 922 of Title 18, Crimes and Criminal Procedure], are subject to the prohibitions of section 922(p) of title 18, United States Code.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 40119, 44902, 44915, 44938, 46301, 46314, 46316 of this title.

§ 44902. Refusal to transport passengers and property

(a) MANDATORY REFUSAL.—The Administrator of the Federal Aviation Administration shall prescribe regulations requiring an air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) a passenger who does not consent to a search under section 44901(a) of this title establishing whether the passenger is carrying unlawfully a dangerous weapon, explosive, or other destructive substance; or

(2) property of a passenger who does not consent to a search of the property establishing whether the property unlawfully contains a dangerous weapon, explosive, or other destructive substance.

(b) PERMISSIVE REFUSAL.—Subject to regulations of the Administrator, an air carrier, intrastate air carrier, or foreign air carrier may refuse to transport a passenger or property the carrier decides is, or might be, inimical to safety.

(c) AGREEING TO CONSENT TO SEARCH.—An agreement to carry passengers or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier is deemed to include an agreement that the passenger or property will not be carried if consent to search the passenger or property for a purpose referred to in this section is not given.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1204.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44902(a)	49 App.:1511(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1111; added Sept. 5, 1961, Pub. L. 87–197, § 4, 75 Stat. 467; restated Aug. 5, 1974, Pub. L. 93–366, § 204, 88 Stat. 418.
44902(b)	49 App.:1511(a) (last sentence).	
44902(c)	49 App.:1511(b).	

In this section, the word ''passenger'' is substituted for ''person'' for consistency in the revised title.

In subsection (a)(1), the words ''of his person'' are omitted as surplus.

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

In subsection (b), the words ''reasonable'' and ''also'' are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''. The words ''the carrier decides is'' are substituted for ''when, in the opinion of the carrier, such transportation would'' to eliminate unnecessary words. The words ''of flight'' are omitted as surplus.

In subsection (c), the words ''for compensation or hire'' are omitted because of the definitions of ''air transportation'' and ''intrastate air transportation'' in section 40102(a) of the revised title. The word ''inspect'' is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 44903. Air transportation security

(a) DEFINITION.—In this section, ''law enforcement personnel'' means individuals—

(1) authorized to carry and use firearms;

(2) vested with the degree of the police power of arrest the Administrator of the Federal Aviation Administration considers necessary to carry out this section; and

(3) identifiable by appropriate indicia of authority.

(b) PROTECTION AGAINST VIOLENCE AND PIRACY.—The Administrator shall prescribe regulations to protect passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy. When prescribing a regulation under this subsection, the Administrator shall—

(1) consult with the Secretary of Transportation, the Attorney General, the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities;

(2) consider whether a proposed regulation is consistent with—

(A) protecting passengers; and

(B) the public interest in promoting air transportation and intrastate air transportation;

(3) to the maximum extent practicable, require a uniform procedure for searching and detaining passengers and property to ensure—

(A) their safety; and

(B) courteous and efficient treatment by an air carrier, an agent or employee of an air carrier, and Government, State, and local law enforcement personnel carrying out this section; and

(4) consider the extent to which a proposed regulation will carry out this section.

(c) SECURITY PROGRAMS.—(1) The Administrator shall prescribe regulations under subsection (b) of this section that require each operator of an airport regularly serving an air carrier holding a certificate issued by the Secretary of Transportation to establish an air transportation security program that provides a law enforcement presence and capability at each of those airports that is adequate to ensure the safety of passengers. The regulations shall authorize the operator to use the services of qualified State, local, and private law enforcement personnel. When the Administrator decides, after being notified by an operator in the form the Administrator prescribes, that not enough qualified State, local, and private law enforcement personnel are available to carry out subsection (b), the Administrator may authorize the operator to use, on a reimbursable basis, personnel employed by the Administrator, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality, to supplement State, local, and private law enforcement personnel. When deciding whether additional personnel are needed, the Administrator shall consider the number of passengers boarded at the airport, the extent of anticipated risk of criminal violence or aircraft piracy at the airport or to the air carrier aircraft operations at the airport, and the availability of qualified State or local law enforcement personnel at the airport.

(2)(A) The Administrator may approve a security program of an airport operator, or an amendment in an existing program, that incorporates a security program of an airport tenant (except an air carrier separately complying with part 108 or 129 of title 14, Code of Federal Regulations) having access to a secured area of the airport, if the program or amendment incorporates—

(i) the measures the tenant will use, within the tenant's leased areas or areas designated for the tenant's exclusive use under an agreement with the airport operator, to carry out the security requirements imposed by the Administrator on the airport operator under the access control system requirements of section 107.14 of title 14, Code of Federal Regulations, or under other requirements of part 107 of title 14; and

(ii) the methods the airport operator will use to monitor and audit the tenant's compliance

with the security requirements and provides that the tenant will be required to pay monetary penalties to the airport operator if the tenant fails to carry out a security requirement under a contractual provision or requirement imposed by the airport operator.

(B) If the Administrator approves a program or amendment described in subparagraph (A) of this paragraph, the airport operator may not be found to be in violation of a requirement of this subsection or subsection (b) of this section when the airport operator demonstrates that the tenant or an employee, permittee, or invitee of the tenant is responsible for the violation and that the airport operator has complied with all measures in its security program for securing compliance with its security program by the tenant.

(d) AUTHORIZING INDIVIDUALS TO CARRY FIREARMS AND MAKE ARRESTS.—With the approval of the Attorney General and the Secretary of State, the Secretary of Transportation may authorize an individual who carries out air transportation security duties—

(1) to carry firearms; and

(2) to make arrests without warrant for an offense against the United States committed in the presence of the individual or for a felony under the laws of the United States, if the individual reasonably believes the individual to be arrested has committed or is committing a felony.

(e) EXCLUSIVE RESPONSIBILITY OVER PASSENGER SAFETY.—The Administrator has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow passengers to leave the aircraft. When requested by the Administrator, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1205.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44903(a)	49 App.:1357(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(a), (b), (e)(2), (3), (f); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 415, 417.
44903(b)	49 App.:1357(a).	
44903(c)(1) ..	49 App.:1357(b).	
44903(c)(2) ..	49 App.:1357(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(g); added Aug. 15, 1990, Pub. L. 101–370, § 2, 104 Stat. 451.
44903(d)	49 App.:1356b.	Aug. 8, 1985, Pub. L. 99–83, § 553(b), 99 Stat. 226.
44903(e)	49 App.:1357(e)(2), (3).	

In this section, the word ''passengers'' is substituted for ''persons'' for consistency in the revised title.

In subsection (a)(2), the words ''the degree of'' are substituted for ''such'' for clarity.

In subsection (b), before clause (1), the word ''rules'' is omitted as being synonymous with ''regulations''. The words ''such reasonable . . . requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary'' are omitted as surplus. The word ''air'' after ''intrastate'' is added for clarity and consistency. The words ''and amending'' are omitted as surplus. In clause (1), the words ''the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities'' are substituted for ''such other Federal, State, and local agencies'' for consistency in the revised title and with other titles of the United States Code. The words ''as he may deem appropriate'' are omitted as surplus. In clause (2)(A), the words ''in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy'' are omitted as surplus. In clause (3), before subclause (A), the words ''inspection'' and ''in air transportation and intrastate air transportation'' are omitted as surplus. In subclause (B), the words ''that they will receive'' and ''any air transportation security program established under'' are omitted as surplus. In clause (4), the words ''contribute to . . . the purposes of'' are omitted as surplus.

In subsection (c)(1), the words ''traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy'' and ''whose services are made available by their employers'' are omitted as surplus. The words ''department, agency, or instrumentality of the Government'' are substituted for ''Federal department or agency'' for consistency in the revised title and with other titles of the Code. The word ''When'' is substituted for ''In any case in which'' to eliminate unnecessary words. The words ''receipt of'', ''by order'', ''the services of'', ''directly'', and ''at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary'' are omitted as surplus. The words ''When deciding whether additional personnel are needed'' are substituted for ''In making the determination referred to in the preceding sentence'' for clarity.

In subsection (c)(2)(A), before clause (i), the words ''under this section'' are omitted as surplus. The words ''or an amendment in an existing program'' are substituted for ''and may approve an amendment to a security program of an airport operator approved by the Administrator under subsection (b)'' to eliminate unnecessary words. In clause (ii), the word ''monetary'' is substituted for ''financial'' for consistency.

In subsection (e), the words ''Notwithstanding any other provisions of law'', ''the commission of'', ''considered'', and ''the moment when'' before ''such door'' are omitted as surplus. The words ''to allow passengers to leave'' are substituted for ''disembarkation'', and the words ''the aircraft'' are added, for clarity. The words ''departments, agencies, and instrumentalities of the Government'' are substituted for ''Federal departments and agencies'' for consistency in the revised title and with other titles of the Code. The words ''as may be . . . the purposes of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 40119, 44915, 44935, 44937, 46301, 46314, 46316 of this title.

§ 44904. Domestic air transportation system security

(a) ASSESSING THREATS.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation jointly shall assess current and potential threats to the domestic air transportation system. The assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against that system and the ways in which those individuals might carry out those acts. The Administrator and the Director jointly shall decide on and carry out the most effective method for continuous analysis

and monitoring of security threats to that system.

(b) ASSESSING SECURITY.—In coordination with the Director, the Administrator shall carry out periodic threat and vulnerability assessments on security at each airport that is part of the domestic air transportation system. Each assessment shall include consideration of—

(1) the adequacy of security procedures related to the handling and transportation of checked baggage and cargo;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, and cargo;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the Administration, the United States Customs Service, the Immigration and Naturalization Service, and air carriers, and of other law enforcement personnel.

(c) IMPROVING SECURITY.—The Administrator shall take necessary actions to improve domestic air transportation security by correcting any deficiencies in that security discovered in the assessments, analyses, and monitoring carried out under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1207.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44904(a)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(a), (b), 104 Stat. 3075.
44904(b)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(c), 104 Stat. 3075.
44904(c)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(e), 104 Stat. 3075.

In subsection (a), the words ''domestic air transportation system'' are substituted for ''domestic aviation system'' for consistency in this section.

In subsection (b), before clause (1), the word ''Director'' is substituted for ''Federal Bureau of Investigation'' because of 28:532. In clauses (1) and (3), the word ''mail'' is omitted as being included in ''cargo''.

In subsection (c), the word ''correcting'' is substituted for ''remedying'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44914, 44938 of this title.

§ 44905. Information about threats to civil aviation

(a) PROVIDING INFORMATION.—Under guidelines the Secretary of Transportation prescribes, an air carrier, airport operator, ticket agent, or individual employed by an air carrier, airport operator, or ticket agent, receiving information (except a communication directed by the United States Government) about a threat to civil aviation shall provide the information promptly to the Secretary.

(b) FLIGHT CANCELLATION.—If a decision is made that a particular threat cannot be addressed in a way adequate to ensure, to the extent feasible, the safety of passengers and crew of a particular flight or series of flights, the Administrator of the Federal Aviation Administration shall cancel the flight or series of flights.

(c) GUIDELINES ON PUBLIC NOTICE.—(1) The President shall develop guidelines for ensuring that public notice is provided in appropriate cases about threats to civil aviation. The guidelines shall identify officials responsible for—

(A) deciding, on a case-by-case basis, if public notice of a threat is in the best interest of the United States and the traveling public;

(B) ensuring that public notice is provided in a timely and effective way, including the use of a toll-free telephone number; and

(C) canceling the departure of a flight or series of flights under subsection (b) of this section.

(2) The guidelines shall provide for consideration of—

(A) the specificity of the threat;

(B) the credibility of intelligence information related to the threat;

(C) the ability to counter the threat effectively;

(D) the protection of intelligence information sources and methods;

(E) cancellation, by an air carrier or the Administrator, of a flight or series of flights instead of public notice;

(F) the ability of passengers and crew to take steps to reduce the risk to their safety after receiving public notice of a threat; and

(G) other factors the Administrator considers appropriate.

(d) GUIDELINES ON NOTICE TO CREWS.—The Administrator shall develop guidelines for ensuring that notice in appropriate cases of threats to the security of an air carrier flight is provided to the flight crew and cabin crew of that flight.

(e) LIMITATION ON NOTICE TO SELECTIVE TRAVELERS.—Notice of a threat to civil aviation may be provided to selective potential travelers only if the threat applies only to those travelers.

(f) RESTRICTING ACCESS TO INFORMATION.—In cooperation with the departments, agencies, and instrumentalities of the Government that collect, receive, and analyze intelligence information related to aviation security, the Administrator shall develop procedures to minimize the number of individuals who have access to information about threats. However, a restriction on access to that information may be imposed only if the restriction does not diminish the ability of the Government to carry out its duties and powers related to aviation security effectively, including providing notice to the public and flight and cabin crews under this section.

(g) DISTRIBUTION OF GUIDELINES.—The guidelines developed under this section shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1207.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44905(a)	49 App.:1358d(a).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 321; added Nov. 16, 1990, Pub. L. 101–604, § 109(a), 104 Stat. 3078.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44905(b)	49 App.:1358d(b).	
44905(c)(1) ..	49 App.:1358d(c)(1), (d).	
44905(c)(2) ..	49 App.:1358d(e).	
44905(d)	49 App.:1358d(c)(2).	
44905(e)	49 App.:1358d(f).	
44905(f)	49 App.:1358d(h).	
44905(g)	49 App.:1358d(g).	

In subsection (a), the words ''employed by an air carrier, airport operator, or ticket agent'' are substituted for ''employed by such an entity'' for clarity. The words ''or a designee of the Secretary'' are omitted as unnecessary.

In subsections (c)(1), before clause (A), and (d), the words ''Not later than 180 days after November 16, 1990'' are omitted as obsolete.

In subsection (c)(1)(B), the words ''when considered appropriate'' are omitted as unnecessary because of the restatement.

In subsection (e), the words ''selective potential travelers'' are substituted for ''only selective potential travelers'' to eliminate an unnecessary word.

In subsection (f), the words ''departments, agencies, and instrumentalities of the Government'' are substituted for ''agencies'' for clarity and consistency in the revised title and with other titles of the United States Code. The words ''However, a restriction on access to that information may be imposed only if the restriction does not diminish'' are substituted for ''Any restriction adopted pursuant to this subsection shall not diminish'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40119, 46301, 46316 of this title.

§ 44906. Foreign air carrier security programs

The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator may approve a security program of a foreign air carrier under section 129.25 only if the Administrator decides the security program provides passengers of the foreign air carrier a level of protection similar to the level those passengers would receive under the security programs of air carriers serving the same airport. The Administrator shall require a foreign air carrier to use procedures equivalent to those required of air carriers serving the same airport if the Administrator decides that the procedures are necessary to provide a level of protection similar to that provided passengers of the air carriers serving the same airport. The Administrator shall prescribe regulations to carry out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1208.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44906(a)(1) ..	49 App.:1357(k)(1)–(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(k)(1)–(3); added Nov. 16, 1990, Pub. L. 101–604, §105(a), 104 Stat. 3074.
	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, §105(c), 104 Stat. 3075.

The text of 49 App.:1357(k)(3) and the words ''Not later than 180 days after the date of enactment of this Act'' in section 105(c) of the Aviation Security Improvement Act of 1990 (Public Law 101–674, 104 Stat. 3075) are omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 44915, 44937, 44938, 46301, 46314, 46316 of this title.

§ 44907. Security standards at foreign airports

(a) ASSESSMENT.—(1) At intervals the Secretary of Transportation considers necessary, the Secretary shall assess the effectiveness of the security measures maintained at—

(A) a foreign airport—

(i) served by an air carrier;

(ii) from which a foreign air carrier serves the United States; or

(iii) that poses a high risk of introducing danger to international air travel; and

(B) other foreign airports the Secretary considers appropriate.

(2) The Secretary of Transportation shall conduct an assessment under paragraph (1) of this subsection—

(A) in consultation with appropriate aeronautic authorities of the government of a foreign country concerned and each air carrier serving the foreign airport for which the Secretary is conducting the assessment;

(B) to establish the extent to which a foreign airport effectively maintains and carries out security measures; and

(C) by using a standard that will result in an analysis of the security measures at the airport based at least on the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation in effect on the date of the assessment.

(3) Each report to Congress required under section 44938(b) of this title shall contain a summary of the assessments conducted under this subsection.

(b) CONSULTATION.—In carrying out subsection (a) of this section, the Secretary of Transportation shall consult with the Secretary of State—

(1) on the terrorist threat that exists in each country; and

(2) to establish which foreign airports are not under the de facto control of the government of the foreign country in which they are located and pose a high risk of introducing danger to international air travel.

(c) NOTIFYING FOREIGN AUTHORITIES.—When the Secretary of Transportation, after conducting an assessment under subsection (a) of this section, decides that an airport does not maintain and carry out effective security measures, the Secretary of Transportation, after advising the Secretary of State, shall notify the appropriate authorities of the government of the foreign country of the decision and recommend the steps necessary to bring the security measures in use at the airport up to the standard used by the Secretary of Transportation in making the assessment.

(d) ACTIONS WHEN AIRPORTS NOT MAINTAINING AND CARRYING OUT EFFECTIVE SECURITY MEAS-

URES.—(1) When the Secretary of Transportation decides under this section that an airport does not maintain and carry out effective security measures—

(A) the Secretary of Transportation shall—

(i) publish the identity of the airport in the Federal Register;

(ii) have the identity of the airport posted and displayed prominently at all United States airports at which scheduled air carrier operations are provided regularly; and

(iii) notify the news media of the identity of the airport;

(B) each air carrier and foreign air carrier providing transportation between the United States and the airport shall provide written notice of the decision, on or with the ticket, to each passenger buying a ticket for transportation between the United States and the airport;

(C) notwithstanding section 40105(b) of this title, the Secretary of Transportation, after consulting with the appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the airport and with the approval of the Secretary of State, may withhold, revoke, or prescribe conditions on the operating authority of an air carrier or foreign air carrier that uses that airport to provide foreign air transportation; and

(D) the President may prohibit an air carrier or foreign air carrier from providing transportation between the United States and any other foreign airport that is served by aircraft flying to or from the airport with respect to which a decision is made under this section.

(2)(A) Paragraph (1) of this subsection becomes effective—

(i) 90 days after the government of a foreign country is notified under subsection (c) of this section if the Secretary of Transportation finds that the government has not brought the security measures at the airport up to the standard the Secretary used in making an assessment under subsection (a) of this section; or

(ii) immediately on the decision of the Secretary of Transportation under subsection (c) of this section if the Secretary of Transportation decides, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from the airport.

(B) The Secretary of Transportation immediately shall notify the Secretary of State of a decision under subparagraph (A)(ii) of this paragraph so that the Secretary of State may issue a travel advisory required under section 44908(a) of this title.

(3) The Secretary of Transportation promptly shall submit to Congress a report (and classified annex if necessary) on action taken under paragraph (1) or (2) of this subsection, including information on attempts made to obtain the cooperation of the government of a foreign country in meeting the standard the Secretary used in assessing the airport under subsection (a) of this section.

(4) An action required under paragraph (1)(A) and (B) of this subsection is no longer required only if the Secretary of Transportation, in consultation with the Secretary of State, decides that effective security measures are maintained and carried out at the airport. The Secretary of Transportation shall notify Congress when the action is no longer required to be taken.

(e) SUSPENSIONS.—Notwithstanding sections 40105(b) and 40106(b) of this title, the Secretary of Transportation, with the approval of the Secretary of State and without notice or a hearing, shall suspend the right of an air carrier or foreign air carrier to provide foreign air transportation, and the right of a person to operate aircraft in foreign air commerce, to or from a foreign airport when the Secretary of Transportation decides that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from that airport; and

(2) the public interest requires an immediate suspension of transportation between the United States and that airport.

(f) CONDITION OF CARRIER AUTHORITY.—This section is a condition to authority the Secretary of Transportation grants under this part to an air carrier or foreign air carrier.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1209.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44907(a)(1) ..	49 App.:1515(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1115(a), (b), (d)–(h); added Aug. 5, 1974, Pub. L. 93–366, § 106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, § 551(a), 99 Stat. 222.
44907(a)(2) ..	49 App.:1515(a)(2), (3).	
44907(a)(3) ..	49 App.:1515(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1115(c); added Aug. 5, 1974, Pub. L. 93–366, § 106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, § 551(a), 99 Stat. 222; Nov. 16, 1990, Pub. L. 101–604, § 102(c)(2), 104 Stat. 3069.
44907(b)	49 App.:1515(b).	
44907(c)	49 App.:1515(d).	
44907(d)(1) ..	49 App.:1515(e)(2).	
44907(d)(2) ..	49 App.:1515(e)(1).	
44907(d)(3) ..	49 App.:1515(e)(3).	
44907(d)(4) ..	49 App.:1515(f).	
44907(e)	49 App.:1515(g).	
44907(f)	49 App.:1515(h).	

In subsections (a)(2)(A) and (d)(2)(A)(i) and (3), the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2)(B), the word ''foreign'' is added for clarity and consistency in this section.

In subsection (b)(2), the word ''foreign'' is added for consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the Code.

In subsection (d)(1), before clause (A), the words ''Subject to paragraph (1)'' are omitted as surplus. In clause (C), the words ''foreign country'' are substituted for ''foreign government'' for clarity and consistency in the revised title and with other titles of the Code. The word ''prescribe'' is substituted for ''impose'' for consistency in the revised title and with other titles of the Code. The word ''provide'' is substituted for ''engage

in'' for consistency in the revised title. In clause (D), the words ''directly or indirectly'' are omitted as surplus.

In subsection (d)(2)(A)(i), the words ''identified'' and ''of such airport'' are omitted as surplus.

In subsection (d)(2)(B), the words ''issue a travel advisory required under section 44908(a) of this title'' are substituted for ''comply with the requirement of section 1515(a) [sic] of this Appendix that a travel advisory be issued'' to eliminate unnecessary words.

In subsection (d)(4), the words ''An action required . . . is no longer required'' are substituted for ''The sanctions required to be imposed with respect to an airport . . . may be lifted'' to eliminate unnecessary words.

In subsection (e), before clause (1), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (f), the words ''issued under authority vested in'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44908, 44938, 46301 of this title.

§ 44908. Travel advisory and suspension of foreign assistance

(a) TRAVEL ADVISORIES.—On being notified by the Secretary of Transportation that the Secretary of Transportation has decided under section 44907(d)(2)(A)(ii) of this title that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport that the Secretary of Transportation has decided under section 44907 of this title does not maintain and carry out effective security measures, the Secretary of State—

(1) immediately shall issue a travel advisory for that airport;

(2) shall publish the advisory in the Federal Register; and

(3) shall publicize the advisory widely.

(b) SUSPENDING ASSISTANCE.—The President shall suspend assistance provided under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.) to a country in which is located an airport with respect to which section 44907(d)(1) of this title becomes effective if the Secretary of State decides the country is a high terrorist threat country. The President may waive this subsection if the President decides, and reports to Congress, that the waiver is required because of national security interests or a humanitarian emergency.

(c) ACTIONS NO LONGER REQUIRED.—An action required under this section is no longer required only if the Secretary of Transportation has made a decision as provided under section 44907(d)(4) of this title. The Secretary shall notify Congress when the action is no longer required to be taken.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1211.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44908(a)	49 App.:1515a(a).	Aug. 8, 1985, Pub. L. 99–83, § 552, 99 Stat. 226.
44908(b)	49 App.:1515a(b).	
44908(c)	49 App.:1515a(c), (d).	

In subsection (a)(3), the words ''take the necessary steps to'' are omitted as surplus.

In subsection (b), the words ''all'' and ''the requirements of'' are omitted as surplus.

Subsection (c) is substituted for 49 App.:1515a(c) and (d) to eliminate unnecessary words.

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§ 2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsec. (b), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) delegated to Secretary of State by section 1–201(a)(25) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44907 of this title.

§ 44909. Passenger manifests

(a) AIR CARRIER REQUIREMENTS.—(1) Not later than March 16, 1991, the Secretary of Transportation shall require each air carrier to provide a passenger manifest for a flight to an appropriate representative of the Secretary of State—

(A) not later than one hour after that carrier is notified of an aviation disaster outside the United States involving that flight; or

(B) if it is not technologically feasible or reasonable to comply with clause (A) of this paragraph, then as expeditiously as possible, but not later than 3 hours after the carrier is so notified.

(2) The passenger manifest shall include the following information:

(A) the full name of each passenger.

(B) the passport number of each passenger, if required for travel.

(C) the name and telephone number of a contact for each passenger.

(3) In carrying out this subsection, the Secretary of Transportation shall consider the necessity and feasibility of requiring air carriers to collect passenger manifest information as a condition for passengers boarding a flight of the carrier.

(b) FOREIGN AIR CARRIER REQUIREMENTS.—The Secretary of Transportation shall consider imposing a requirement on foreign air carriers comparable to that imposed on air carriers under subsection (a)(1) and (2) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1211.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44909(a)(1) ..	49 App.:1380(a).	Aug. 23, 1958, Pub. L. 85–726, § 410, 72 Stat. 769; Oct. 15, 1962, Pub. L. 87–820, § 8, 76 Stat. 936; restated Nov. 16, 1990, Pub. L. 101–604, § 203(a), 104 Stat. 3082.
44909(a)(2) ..	49 App.:1380(b).	
44909(a)(3) ..	49 App.:1380 (note).	Nov. 16, 1990, Pub. L. 101–604, § 203(b), 104 Stat. 3082.
44909(b)	49 App.:1380 (note).	Nov. 16, 1990, Pub. L. 101–604, § 203(c), 104 Stat. 3083.

In subsection (a)(1), before clause (A), the words ''each air carrier'' are substituted ''all United States air carriers'' because of the definition of ''air carrier'' in section 40102(a) of the revised title. The words ''an appropriate representative of the Secretary of State'' are substituted for ''appropriate representatives of the United States Department of State'' because of 22:2651 and for consistency in the revised title and with other titles of the United States Code. In clause (B), the words ''to comply with clause (A) of this paragraph'' are substituted for ''to fulfill the requirement of this subsection'' for consistency in the revised title and with other titles of the Code.

In subsection (a)(2), before clause (B), the words ''For purposes of this section'' are omitted as unnecessary.

In subsection (a)(3), the words ''In carrying out this subsection'' are substituted for ''In implementing the requirement pursuant to the amendment made by subsection (a) of this section'' for clarity and to eliminate unnecessary words.

In subsection (b), the word ''imposing'' is added for clarity. The words ''imposed on air carriers under subsection (a)(1) and (2) of this section'' are substituted for ''imposed pursuant to the amendment made by subsection (a)'' for clarity and because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46301 of this title.

§ 44910. Agreements on aircraft sabotage, aircraft hijacking, and airport security

The Secretary of State shall seek multilateral and bilateral agreement on strengthening enforcement measures and standards for compliance related to aircraft sabotage, aircraft hijacking, and airport security.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44910	49 App.:1515 (note).	Aug. 8, 1985, Pub. L. 99–83, § 556, 99 Stat. 227.

§ 44911. Intelligence

(a) DEFINITION.—In this section, ''intelligence community'' means the intelligence and intelligence-related activities of the following units of the United States Government:

(1) the Department of State.

(2) the Department of Defense.

(3) the Department of the Treasury.

(4) the Department of Energy.

(5) the Departments of the Army, Navy, and Air Force.

(6) the Central Intelligence Agency.

(7) the National Security Agency.

(8) the Defense Intelligence Agency.

(9) the Federal Bureau of Investigation.

(10) the Drug Enforcement Administration.

(b) POLICIES AND PROCEDURES ON REPORT AVAILABILITY.—The head of each unit in the intelligence community shall prescribe policies and procedures to ensure that intelligence reports about international terrorism are made available, as appropriate, to the heads of other units in the intelligence community, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration.

(c) UNIT FOR STRATEGIC PLANNING ON TERRORISM.—The heads of the units in the intelligence community shall consider placing greater emphasis on strategic intelligence efforts by establishing a unit for strategic planning on terrorism.

(d) DESIGNATION OF INTELLIGENCE OFFICER.—At the request of the Secretary, the Director of Central Intelligence shall designate at least one intelligence officer of the Central Intelligence Agency to serve in a senior position in the Office of the Secretary.

(e) WRITTEN WORKING AGREEMENTS.—The heads of units in the intelligence community, the Secretary, and the Administrator shall review and, as appropriate, revise written working agreements between the intelligence community and the Administrator.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44911(a)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, § 111(e), 104 Stat. 3080.
44911(b)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, § 111(a), 104 Stat. 3080.
44911(c)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, § 111(b), 104 Stat. 3080.
44911(d)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, § 111(c), 104 Stat. 3080.
44911(e)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, § 111(d), 104 Stat. 3080.

In this section, the word ''units'' is substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (e), the words ''Not later than 180 days after the date of enactment of this Act'' in section 111(a) and (d) of the Aviation Security Improvement Act of 1990 (Public Law 101–640, 104 Stat. 3080) are omitted as obsolete.

In subsection (b), the words ''the heads of other units in the intelligence community, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration'' are substituted for ''other members of the intelligence community, the Department of Transportation, and the Federal Aviation Administration'' for clarity and consistency in the revised title and with other titles of the Code.

In subsections (c) and (e), the words ''heads of units in the intelligence community'' are substituted for ''intelligence community'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (e), the words ''memorandums of understanding'' are omitted as being included in ''written working agreements''.

§ 44912. Research and development

(a) PROGRAM REQUIREMENT.—(1) The Administrator of the Federal Aviation Administration shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures

to counteract terrorist acts against civil aviation. The program shall provide for developing and having in place, not later than November 16, 1993, new equipment and procedures necessary to meet the technological challenges presented by terrorism. The program shall include research on, and development of, technological improvements and ways to enhance human performance.

(2) In designing and carrying out the program established under this subsection, the Administrator shall—

(A) consult and coordinate activities with other departments, agencies, and instrumentalities of the United States Government doing similar research;

(B) identify departments, agencies, and instrumentalities that would benefit from that research; and

(C) seek cost-sharing agreements with those departments, agencies, and instrumentalities.

(3) In carrying out the program established under this subsection, the Administrator shall review and consider the annual reports the Secretary of Transportation submits to Congress on transportation security and intelligence.

(4) The Administrator may—

(A) make grants to institutions of higher learning and other appropriate research facilities with demonstrated ability to carry out research described in paragraph (1) of this subsection, and fix the amounts and terms of the grants; and

(B) make cooperative agreements with governmental authorities the Administrator decides are appropriate.

(b) REVIEW OF THREATS.—(1) The Administrator shall complete an intensive review of threats to civil aviation, with particular focus on—

(A) explosive material that presents the most significant threat to civil aircraft;

(B) the minimum amounts, configurations, and types of explosive material that can cause, or would reasonably be expected to cause, catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on November 16, 1990;

(C) the amounts, configurations, and types of explosive material that can be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(D) the feasibility of using various ways to minimize damage caused by explosive material that cannot be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(E) the ability to screen passengers, carry-on baggage, checked baggage, and cargo; and

(F) the technologies that might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the way in which those technologies can be countered effectively.

(2) The Administrator shall use the results of the review under this subsection to develop the focus and priorities of the program established under subsection (a) of this section.

(c) SCIENTIFIC ADVISORY PANEL.—The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, to review, comment on, advise on the progress of, and recommend modifications in, the program established under subsection (a) of this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

(1) the development and testing of effective explosive detection systems;

(2) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective technology must be capable of detecting;

(3) technologies involved in minimizing airframe damage to aircraft from explosives; and

(4) other scientific and technical areas the Administrator considers appropriate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44912(a)	49 App.:1357(d)(3)(A), (D), (4)–(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(d)(3)–(8); added Nov. 16, 1990, Pub. L. 101–604, §107, 104 Stat. 3076.
44912(b)	49 App.:1357(d)(3)(B), (C).	
44912(c)	49 App.:1357(d)(8).	

In subsection (a)(1), the words ''It shall be the purpose of the program established under paragraph (3)'' and ''established under paragraph (3)'' are omitted as unnecessary.

In subsection (a)(2)(A), the word ''activities'' is added for clarity. The words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''Federal agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(4), the words ''The Administrator may . . . make grants'' are substituted for ''Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants'' to eliminate unnecessary words. In clause (A), the words ''institutions of higher learning'' are substituted for ''colleges, universities'', and the word ''institutions'' is substituted for ''institutions and facilities'', for clarity and consistency in the revised title and with other titles of the Code. In clause (B), the words ''governmental authorities'' are substituted for ''governmental entities'' for consistency in the revised title and with other titles of the Code.

In subsection (b)(1), before clause (A), the words ''Not later than 180 days after November 16, 1990'' are omitted as obsolete. Clause (B) is substituted for 49 App.:1357(d)(3)(B)(ii) and (iii) for clarity and to eliminate unnecessary words.

In subsection (b)(1)(E), the word ''mail'' is omitted as being included in ''cargo''.

TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than expiration of 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to expiration of such 2-year period, or in the case of a panel established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86

Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 44937, 46301, 46316, 48107 of this title.

§ 44913. Explosive detection

(a) DEPLOYMENT AND PURCHASE OF EQUIPMENT.—(1) A deployment or purchase of explosive detection equipment under section 108.7(b)(8) or 108.20 of title 14, Code of Federal Regulations, or similar regulation is required only if the Administrator of the Federal Aviation Administration certifies that the equipment alone, or as part of an integrated system, can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall base the certification on the results of tests conducted under protocols developed in consultation with expert scientists outside of the Administration. Those tests shall be completed not later than April 16, 1992.

(2) Before completion of the tests described in paragraph (1) of this subsection, but not later than April 16, 1992, the Administrator may require deployment of explosive detection equipment described in paragraph (1) if the Administrator decides that deployment will enhance aviation security significantly. In making that decision, the Administrator shall consider factors such as the ability of the equipment alone, or as part of an integrated system, to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives of a deployment decision made under this paragraph.

(3) This subsection does not prohibit the Administrator from purchasing or deploying explosive detection equipment described in paragraph (1) of this subsection.

(b) GRANTS.—The Secretary of Transportation may provide grants to continue the Explosive Detection K-9 Team Training Program to detect explosives at airports and on aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1214.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44913(a)(1) ..	49 App.:1358c(a), (b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 320; added Nov. 16, 1990, Pub. L. 101–604, § 108, 104 Stat. 3077.
44913(a)(2) ..	49 App.:1358c(c).	
44913(a)(3) ..	49 App.:1358c(d).	
44913(b)	49 App.:2225.	Sept. 3, 1982, Pub. L. 97–248, § 529, 96 Stat. 699; Dec. 30, 1987, Pub. L. 100–223, § 114, 101 Stat. 1505.

In subsection (a), the words ''after November 16, 1990'' are omitted as executed. The words ''The Administrator shall base the certification on'' are substituted for ''based on'' because of the restatement.

In subsection (b), the words ''but not be limited to'' are omitted as unnecessary.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives changed to Committee on Transportation and Infrastructure of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 46316 of this title; title 26 section 4261.

§ 44914. Airport construction guidelines

In consultation with air carriers, airport authorities, and others the Administrator of the Federal Aviation Administration considers appropriate, the Administrator shall develop guidelines for airport design and construction to allow for maximum security enhancement. In developing the guidelines, the Administrator shall consider the results of the assessment carried out under section 44904(a) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1214.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44914	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(f), 104 Stat. 3075.
	49 App.:1432(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 612(d); added Nov. 16, 1990, Pub. L. 101–604, § 110(a), 104 Stat. 3080.

The words ''In developing the guidelines'' are substituted for ''In developing airport construction guidelines under subsection (d) of section 612 of the Federal Aviation Act of 1958, as added by section 110 of this Act'' in section 106(f) of the Aviation Security Improvement Act of 1990 (Public Law 101–604, 104 Stat. 3075) to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 46316 of this title.

§ 44915. Exemptions

The Administrator of the Federal Aviation Administration may exempt from sections 44901, 44903(a)–(c) and (e), 44906, 44935, and 44936 of this title airports in Alaska served only by air carriers that—

(1) hold certificates issued under section 41102 of this title;

(2) operate aircraft with certificates for a maximum gross takeoff weight of less than 12,500 pounds; and

(3) board passengers, or load property intended to be carried in an aircraft cabin, that will be screened under section 44901 of this title at another airport in Alaska before the passengers board, or the property is loaded on, an aircraft for a place outside Alaska.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44915	49 App.:1358.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 317; added July 12, 1976, Pub. L. 94–353, § 17(a), 90 Stat. 882.

In clause (1), the word ''issued'' is substituted for ''granted'' for consistency in this part. The words ''by the Civil Aeronautics Board'' are omitted as surplus.

Clause (3) is substituted for 49 App.:1358 (words after 3d comma) for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 46316 of this title.

SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

§ 44931. Director of Intelligence and Security

(a) ORGANIZATION.—There is in the Office of the Secretary of Transportation a Director of Intelligence and Security. The Director reports directly to the Secretary.

(b) DUTIES AND POWERS.—The Director shall—

(1) receive, assess, and distribute intelligence information related to long-term transportation security;

(2) develop policies, strategies, and plans for dealing with threats to transportation security;

(3) make other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States Government;

(4) serve as the primary liaison of the Secretary to the intelligence and law enforcement communities; and

(5) carry out other duties and powers the Secretary decides are necessary to ensure, to the extent possible, the security of the traveling public.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44931	49 App.:1652b.	Nov. 16, 1990, Pub. L. 101–604, § 101(a), (b), 104 Stat. 3067.

In subsection (a), the word ''established'' is omitted as executed. The words ''position of'' are omitted as surplus.

In subsection (b), before clause (1), the word ''shall'' is substituted for ''shall have the following duties and powers'' to eliminate unnecessary words. In clause (3), the words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''Federal agencies'' for clarity and consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 44932. Assistant Administrator for Civil Aviation Security

(a) ORGANIZATION.—There is an Assistant Administrator for Civil Aviation Security. The Assistant Administrator reports directly to the Administrator of the Federal Aviation Administration and is subject to the authority of the Administrator.

(b) DUTIES AND POWERS.—The Assistant Administrator shall—

(1) on a day-to-day basis, manage and provide operational guidance to the field security resources of the Administration, including Federal Security Managers as provided by section 44933 of this title;

(2) enforce security-related requirements;

(3) identify the research and development requirements of security-related activities;

(4) inspect security systems;

(5) report information to the Director of Intelligence and Security that may be necessary to allow the Director to carry out assigned duties and powers;

(6) assess threats to civil aviation; and

(7) carry out other duties and powers the Administrator considers appropriate.

(c) REVIEW AND DEVELOPMENT OF WAYS TO STRENGTHEN SECURITY.—The Assistant Administrator shall review and, as necessary, develop ways to strengthen air transportation security, including ways—

(1) to strengthen controls over checked baggage in air transportation, including ways to ensure baggage reconciliation and inspection of items in passenger baggage that could potentially contain explosive devices;

(2) to strengthen control over individuals having access to aircraft;

(3) to improve testing of security systems;

(4) to ensure the use of the best available x-ray equipment for air transportation security purposes; and

(5) to strengthen preflight screening of passengers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44932(a)	49 App.:1358a(a), (b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 318; added Nov. 16, 1990, Pub. L. 101–604, § 103, 104 Stat. 3069.
44932(b)	49 App.:1358a(c).	
44932(c)	49 App.:1358a(d).	

In subsection (a), the words ''There is an'' are substituted for ''There is established the position of'' to eliminate unnecessary and executed words. The word ''direction'' is omitted as being included in ''authority''.

In subsection (b)(1), the words ''as provided by section 44933 of this title'' are added for clarity and because of the restatement. In clause (5), the words ''duties and powers'' are substituted for ''responsibilities'' for consistency in the revised title and with other titles of the United States Code. In clause (7), the words ''carry out duties and powers'' are substituted for ''such other functions'' for consistency in the revised title and with other titles of the Code. The word ''necessary'' is omitted as being included in ''appropriate''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 46316 of this title.

§ 44933. Federal Security Managers

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Administrator of the Federal Aviation Administration shall establish the position of Federal Security Manager at each airport in the United States at which the Administrator decides a Manager is necessary for air transportation security. The Administrator shall designate individuals as Managers for, and station those Managers at, those airports. The Administrator may designate a current field employee of the Administration as a Manager. A Manager reports directly to the Assistant Administrator for Civil Aviation Security. The Administrator shall station an individual as Manager at each airport in the United States that the Secretary of Transportation designates as a category X airport.

(b) DUTIES AND POWERS.—The Manager at each airport shall—

(1) receive intelligence information related to aviation security;

(2) ensure, and assist in, the development of a comprehensive security plan for the airport that—

(A) establishes the responsibilities of each air carrier and airport operator for air transportation security at the airport; and

(B) includes measures to be taken during periods of normal airport operations and during periods when the Manager decides that there is a need for additional airport security, and identifies the individuals responsible for carrying out those measures;

(3) oversee and enforce the carrying out by air carriers and airport operators of United States Government security requirements, including the security plan under clause (2) of this subsection;

(4) serve as the on-site coordinator of the Administrator's response to terrorist incidents and threats at the airport;

(5) coordinate the day-to-day Government aviation security activities at the airport;

(6) coordinate efforts related to aviation security with local law enforcement; and

(7) coordinate activities with other Managers.

(c) LIMITATION.—A Civil Aviation Security Field Officer may not be assigned security duties and powers at an airport having a Manager.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1216.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44933(a)	49 App.:1358b(a) (1), (2), (4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §319(a); added Nov. 16, 1990, Pub. L. 101–604, §104, 104 Stat. 3070.
44933(b)	49 App.:1358b(a) (3).	
44933(c)	49 App.:1358b(a) (5).	

In subsection (a), the words "Not later than 90 days after November 16, 1990" are omitted as obsolete. The words "The Administrator shall designate individuals as Managers for, and station those Managers at, those airports" are substituted for "and shall begin designating persons as such Managers and stationing such Managers at such airports" for clarity and because of the restatement. The words "and designate a current field employee of the Administration as a Manager" are substituted for "assign the functions and responsibilities described in this section to existing Federal Aviation Administration field personnel and designate such personnel accordingly" to eliminate unnecessary words. The words "to the office of" are omitted as unnecessary. The words "Not later than 1 year after November 16, 1990" are omitted as obsolete. The words "Secretary of Transportation" are substituted for "Department of Transportation" because of 49:102.

In subsection (b), before clause (1), the words "The Manager at each airport shall" are substituted for "The responsibilities of a Federal Security Manager shall include the following" to eliminate unnecessary words. In clause (2)(A), the words "air carrier" are substituted for "such air carrier" because this is the first time the term is used in the source provisions. In clause (3), the words "United States Government" are substituted for "Federal" for clarity and consistency in the revised title and with other titles of the United States Code. In clause (7), the words "other Managers" are substituted for "Federal Security Managers at other airports, as appropriate" to eliminate unnecessary words.

In subsection (c), the words "duties and powers" are substituted for "responsibilities" for clarity and consistency in the revised title and with other titles of the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44932, 44934, 46301, 46316 of this title.

§ 44934. Foreign Security Liaison Officers

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Administrator of the Federal Aviation Administration shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Administrator decides an Officer is necessary for air transportation security. In coordination with the Secretary of State, the Administrator shall designate an Officer for each of those airports. In coordination with the Secretary, the Administrator shall designate an Officer for each of those airports where extraordinary security measures are in place. The Secretary shall give high priority to stationing those Officers.

(b) DUTIES AND POWERS.—An Officer reports directly to the Assistant Administrator for Civil Aviation Security. The Officer at each airport shall—

(1) serve as the liaison of the Assistant Administrator to foreign security authorities (including governments of foreign countries and foreign airport authorities) in carrying out United States Government security requirements at that airport; and

(2) to the extent practicable, carry out duties and powers referred to in section 44933(b) of this title.

(c) COORDINATION OF ACTIVITIES.—The activities of each Officer shall be coordinated with the chief of the diplomatic mission of the United States to which the Officer is assigned. Activities of an Officer under this section shall be consistent with the duties and powers of the Secretary and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4802) and section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1217.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44934(a)	49 App.:1358b(b) (1), (2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 319(b); added Nov. 16, 1990, Pub. L. 101–604, § 104, 104 Stat. 3071.
44934(b)	49 App.:1358b(b) (3), (4).	
44934(c)	49 App.:1358b(b) (5).	

In subsection (a), the words ''Not later than 90 days after November 16, 1990'' are omitted as obsolete. The words ''shall designate'' are substituted for ''shall begin assigning'' for consistency with the source provisions restated in section 44933 of the revised title and because of the restatement. The words ''Not later than 2 years after November 16, 1990'' are omitted as obsolete. The word ''designate'' is substituted for ''assign'' for consistency with the source provisions restated in section 44933 of the revised title. The words ''outside the United States'' are omitted as unnecessary.

In subsection (b), before clause (1), the words ''to the office of'' are omitted as unnecessary. In clause (1), the words ''governments of foreign countries and foreign airport authorities'' are substituted for ''foreign governments and airport authorities'' for clarity and consistency in the revised title and with other titles of the United States Code. In clause (2), the words ''duties and powers'' are substituted for ''responsibilities'' for consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''duties and powers'' are substituted for ''authorities'' for clarity and consistency in the revised title and with other titles of the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 46316 of this title.

§ 44935. Employment standards and training

(a) EMPLOYMENT STANDARDS.—The Administrator of the Federal Aviation Administration shall prescribe standards for the employment and continued employment of, and contracting for, air carrier personnel and, as appropriate, airport security personnel. The standards shall include—

(1) minimum training requirements for new employees;

(2) retraining requirements;

(3) minimum staffing levels;

(4) minimum language skills; and

(5) minimum education levels for employees, when appropriate.

(b) REVIEW AND RECOMMENDATIONS.—In coordination with air carriers, airport operators, and other interested persons, the Administrator shall review issues related to human performance in the aviation security system to maximize that performance. When the review is completed, the Administrator shall recommend guidelines and prescribe appropriate changes in existing procedures to improve that performance.

(c) SECURITY PROGRAM TRAINING, STANDARDS, AND QUALIFICATIONS.—(1) The Administrator—

(A) may train individuals employed to carry out a security program under section 44903(c) of this title; and

(B) shall prescribe uniform training standards and uniform minimum qualifications for individuals eligible for that training.

(2) The Administrator may authorize reimbursement for travel, transportation, and subsistence expenses for security training of non-United States Government domestic and foreign individuals whose services will contribute significantly to carrying out civil aviation security programs. To the extent practicable, air travel reimbursed under this paragraph shall be on air carriers.

(d) EDUCATION AND TRAINING STANDARDS FOR SECURITY COORDINATORS, SUPERVISORY PERSONNEL, AND PILOTS.—(1) The Administrator shall prescribe standards for educating and training—

(A) ground security coordinators;

(B) security supervisory personnel; and

(C) airline pilots as in-flight security coordinators.

(2) The standards shall include initial training, retraining, and continuing education requirements and methods. Those requirements and methods shall be used annually to measure the performance of ground security coordinators and security supervisory personnel.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1217.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44935(a)	49 App.:1357(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(h)–(j); added Nov. 16, 1990, Pub. L. 101–604, § 105(a), 104 Stat. 3073.
44935(b)	49 App.:1357(i).	
44935(c)	49 App.:1357(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(c); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 416; Oct. 31, 1992, Pub. L. 102–581, § 202, 106 Stat. 4890.
44935(d)	49 App.:1357(j).	

In subsection (a), before clause (1), the words ''Not later than 270 days after November 16, 1990'' are omitted as obsolete. The words ''contracting for'' are substituted for ''contracting of'' for clarity and consistency in the revised title.

In subsection (c)(1)(A), the words ''individuals employed'' are substituted for ''personnel employed by him . . . and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (c)(1)(B), the words ''individuals eligible'' are substituted for ''personnel whose services are utilized to enforce any such transportation security program, including State, local, and private law enforcement personnel . . . for personnel eligible'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c)(2), the words ''under this section'' are omitted as unnecessary. The words ''United States'' before ''air carriers'' are omitted because of the definition of ''air carrier'' in section 40102(a) of the revised title.

In subsection (d)(1), before clause (A), the words ''Not later than 180 days after November 16, 1990'' are omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 40119, 44915, 44937, 46301, 46316 of this title.

§ 44936. Employment investigations and restrictions

(a) EMPLOYMENT INVESTIGATION REQUIREMENT.—(1) The Administrator of the Federal Aviation Administration shall require by regulation that an employment investigation, including a criminal history record check, shall be conducted, as the Administrator decides is necessary to ensure air transportation security, of each individual employed in, or applying for, a position in which the individual has unescorted access, or may permit other individuals to have unescorted access, to—

(A) aircraft of an air carrier or foreign air carrier; or

(B) a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier.

(2) An air carrier, foreign air carrier, or airport operator that employs, or authorizes or makes a contract for the services of, an individual in a position described in paragraph (1) of this subsection shall ensure that the investigation the Administrator requires is conducted.

(b) PROHIBITED EMPLOYMENT.—(1) Except as provided in paragraph (3) of this subsection, an air carrier, foreign air carrier, or airport operator may not employ, or authorize or make a contract for the services of, an individual in a position described in subsection (a)(1) of this section if—

(A) the investigation of the individual required under this section has not been conducted; or

(B) the results of that investigation establish that, in the 10-year period ending on the date of the investigation, the individual was convicted of—

(i) a crime referred to in section 46306, 46308, 46312, 46314, or 46315 or chapter 465 of this title or section 32 of title 18;

(ii) murder;

(iii) assault with intent to murder;

(iv) espionage;

(v) sedition;

(vi) treason;

(vii) rape;

(viii) kidnapping;

(ix) unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(x) extortion;

(xi) armed robbery;

(xii) distribution of, or intent to distribute, a controlled substance; or

(xiii) conspiracy to commit any of the acts referred to in clauses (i)–(xii) of this paragraph.

(2) The Administrator may specify other factors that are sufficient to prohibit the employment of an individual in a position described in subsection (a)(1) of this section.

(3) An air carrier, foreign air carrier, or airport operator may employ, or authorize or contract for the services of, an individual in a position described in subsection (a)(1) of this section without carrying out the investigation required under this section, if the Administrator approves a plan to employ the individual that provides alternate security arrangements.

(c) FINGERPRINTING AND RECORD CHECK INFORMATION.—(1) If the Administrator requires an identification and criminal history record check, to be conducted by the Attorney General, as part of an investigation under this section, the Administrator shall designate an individual to obtain fingerprints and submit those fingerprints to the Attorney General. The Attorney General may make the results of a check available to an individual the Administrator designates. Before designating an individual to obtain and submit fingerprints or receive results of a check, the Administrator shall consult with the Attorney General.

(2) The Administrator shall prescribe regulations on—

(A) procedures for taking fingerprints; and

(B) requirements for using information received from the Attorney General under paragraph (1) of this subsection—

(i) to limit the dissemination of the information; and

(ii) to ensure that the information is used only to carry out this section.

(3) If an identification and criminal history record check is conducted as part of an investigation of an individual under this section, the individual—

(A) shall receive a copy of any record received from the Attorney General; and

(B) may complete and correct the information contained in the check before a final employment decision is made based on the check.

(d) FEES AND CHARGES.—The Administrator and the Attorney General shall establish reasonable fees and charges to pay expenses incurred in carrying out this section. The employer of the individual being investigated shall pay the costs of a record check of the individual. Money collected under this section shall be credited to the account in the Treasury from which the expenses were incurred and are available to the Administrator and the Attorney General for those expenses.

(e) WHEN INVESTIGATION OR RECORD CHECK NOT REQUIRED.—This section does not require an investigation or record check when the investigation or record check is prohibited by a law of a foreign country.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1218.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44936(a)	49 App.:1357(g)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(g); added Nov. 16, 1990, Pub. L. 101–604, § 105(a), 104 Stat. 3071.
	49 App.:1357 (note).	Oct. 28, 1991, Pub. L. 102–143, § 346, 105 Stat. 949.
44936(b)	49 App.:1357(g)(3).	
44936(c)	49 App.:1357(g)(2) (less (A) (2d sentence)).	
44936(d)	49 App.:1357(g) (2)(A) (2d sentence), (5).	
44936(e)	49 App.:1357(g)(4).	

In subsection (a), the text of section 346 of the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102–143, 105 Stat. 949) is omitted as executed.

In subsection (a)(2), the words ''shall ensure'' are substituted for ''shall take such actions as may be necessary to ensure'' to eliminate unnecessary words. The

word ''conducted'' is substituted for ''performed'' for consistency in the revised title.

In subsection (b)(2), the words ''The Administrator may specify'' are substituted for ''The Administrator may specify . . . the Administrator determines'' to eliminate unnecessary words. The words ''prohibit the employment of an individual'' are substituted for ''make an individual ineligible for employment'' for clarity.

In subsection (b)(3), the words ''may employ'' are substituted for ''It shall not be a violation of subparagraph (A) for . . . to employ'' to eliminate unnecessary words.

In subsection (c)(1), the words ''Before designating an individual to obtain and submit fingerprints or receive results of a check, the Administrator shall consult with the Attorney General'' are substituted for ''after consultation with the Attorney General'' for clarity.

In subsection (c)(2), before clause (A), the words ''For purposes of administering this subsection'' are omitted as unnecessary. In clause (A), the word ''implement'' is omitted as unnecessary because of the restatement. In clause (B), before subclause (ii), the word ''establish'' is omitted as unnecessary because of the restatement. In subclause (ii), the words ''to carry out this section'' are substituted for ''for the purposes of this section'' for clarity.

In subsection (e), the words ''a law of a foreign country'' are substituted for ''applicable laws of a foreign government'' for clarity and consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 40119, 44915, 44937, 46301, 46316 of this title.

§ 44937. Prohibition on transferring duties and powers

Except as specifically provided by law, the Administrator of the Federal Aviation Administration may not transfer a duty or power under section 44903(a), (b), (c), or (e), 44906, 44912, 44935, 44936, or 44938(b)(3) of this title to another department, agency, or instrumentality of the United States Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1219; Pub. L. 103–429, § 6(57), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44937	49 App.:1357(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(e)(1); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 417.

The word ''otherwise'' is omitted as surplus. The word ''assigned'' is omitted as being included in ''transfer''. The word ''function'' is omitted as being included in ''duty or power''. The words ''department, agency, or instrumentality of the United States Government'' are substituted for ''Federal department or agency'' for clarity and consistency in the revised title and with other titles of the United States Code.

PUB. L. 103–429

This amends 49:44937 to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1219).

AMENDMENTS

1994—Pub. L. 103–429 substituted ''44906'' for ''44906(a)(1) or (b)''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 46301, 46316 of this title.

§ 44938. Reports

(a) TRANSPORTATION SECURITY.—Not later than March 31 of each year, the Secretary of Transportation shall submit to Congress a report on transportation security with recommendations the Secretary considers appropriate. The report shall be prepared in conjunction with the annual report the Administrator of the Federal Aviation Administration submits under subsection (b) of this section, but may not duplicate the information submitted under subsection (b) or section 44907(a)(3) of this title. The Secretary may submit the report in classified and unclassified parts. The report shall include—

(1) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

(2) an evaluation of deployment of explosive detection devices;

(3) recommendations for research, engineering, and development activities related to transportation security, except research engineering and development activities related to aviation security to the extent those activities are covered by the national aviation research plan required under section 44501(c) of this title;

(4) identification and evaluation of cooperative efforts with other departments, agencies, and instrumentalities of the United States Government;

(5) an evaluation of cooperation with foreign transportation and security authorities;

(6) the status of the extent to which the recommendations of the President's Commission on Aviation Security and Terrorism have been carried out and the reasons for any delay in carrying out those recommendations;

(7) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of the report;

(8) financial and staffing requirements of the Director;

(9) an assessment of financial and staffing requirements, and attainment of existing staffing goals, for carrying out duties and powers of the Administrator related to security; and

(10) appropriate legislative and regulatory recommendations.

(b) SCREENING AND FOREIGN AIR CARRIER AND AIRPORT SECURITY.—The Administrator shall submit annually to Congress a report—

(1) on the effectiveness of procedures under section 44901 of this title;

(2) that includes a summary of the assessments conducted under section 44907(a)(1) and (2) of this title; and

(3) that includes an assessment of the steps being taken, and the progress being made, in ensuring compliance with section 44906 of this

title for each foreign air carrier security program at airports outside the United States—

(A) at which the Administrator decides that Foreign Security Liaison Officers are necessary for air transportation security; and

(B) for which extraordinary security measures are in place.

(c) DOMESTIC AIR TRANSPORTATION SYSTEM SECURITY.—The Administrator shall submit to Congress an annual report for each of the calendar years 1991 and 1992 on the progress being made, and the problems occurring, in carrying out section 44904 of this title. The report shall include recommendations for improving domestic air transportation security.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1220; Pub. L. 103–305, title V, § 502, Aug. 23, 1994, 108 Stat. 1595.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44938(a)	49 App.:1356(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 315(b); added Nov. 16, 1990, Pub. L. 101–604, § 102(a), 104 Stat. 3068.
44938(b)(1), (2).	49 App.:1356(a) (3d sentence 1st–18th words, last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 315(a) (3d sentence 1st–18th words, last sentence); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 415; Aug. 8, 1985, Pub. L. 99–83, § 551(b)(1), 99 Stat. 225; Nov. 16, 1990, Pub. L. 101–604, § 102(b), 104 Stat. 3069.
44938(b)(3) ..	49 App.:1357(k)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(k)(4); added Nov. 16, 1990, Pub. L. 101–604, § 105(a), 104 Stat. 3074.
44938(c)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(d), 104 Stat. 3075.

In subsection (a), before clause (1), the words ''each year'' are substituted for ''of calendar year 1991 and of each calendar year thereafter'' to eliminate unnecessary words. In clauses (8) and (9), the word ''financial'' is substituted for ''funding'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word ''screening'' is omitted as surplus.

In subsection (b)(2), the words ''a summary of the assessments conducted under section 44907(a)(1) and (2) of this title'' are substituted for ''the information described in section 1515(c) of this Appendix'' for clarity.

In subsection (b)(3), before clause (A), the words ''that includes'' are substituted for ''The Administrator shall submit to Congress as part of the annual report required by section 315(a)'' because of the restatement.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–305 substituted ''March 31'' for ''December 31''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 337, 40119, 44907, 44937, 46301, 46316 of this title.

CHAPTER 451—ALCOHOL AND CONTROLLED SUBSTANCES TESTING

Sec.
45101. Definition.
45102. Alcohol and controlled substances testing programs.
45103. Prohibited service.
45104. Testing and laboratory requirements.
45105. Rehabilitation.
45106. Relationship to other laws, regulations, standards, and orders.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 106 of this title.

§ 45101. Definition

In this chapter, ''controlled substance'' means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1221.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45101	49 App.:1434(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(f); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 956.

§ 45102. Alcohol and controlled substances testing programs

(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS.—(1) In the interest of aviation safety, the Administrator of the Federal Aviation Administration shall prescribe regulations not later than October 28, 1992, that establish a program requiring air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation.

(2) When the Administrator considers it appropriate in the interest of safety, the Administrator may prescribe regulations for conducting periodic recurring testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(b) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION.—(1) The Administrator shall establish a program of preemployment, reasonable suspicion, random, and post-accident testing for the use of alcohol or a controlled substance in violation of law or a Government regulation for employees of the Administration whose duties include responsibility for safety-sensitive functions.

(2) When the Administrator considers it appropriate in the interest of safety, the Administrator may prescribe regulations for conducting periodic recurring testing of employees of the Administration responsible for safety-sensitive functions for use of alcohol or a controlled substance in violation of law or a Government regulation.

(c) SANCTIONS.—In prescribing regulations under the programs required by this section, the

Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to an individual referred to in this section, or the disqualification or dismissal of the individual, under this chapter when a test conducted and confirmed under this chapter indicates the individual has used alcohol or a controlled substance in violation of law or a Government regulation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1221.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45102(a)	49 App.:1434(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(a); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 953.
45102(b)	49 App.:1434(a)(2).	
45102(c)	49 App.:1434(a)(3).	

In subsections (a)(2) and (b)(2), the word ''also'' is omitted as surplus.

RULEMAKING ON RANDOM TESTING FOR PROHIBITED DRUGS

Pub. L. 103–305, title V, § 501, Aug. 23, 1994, 108 Stat. 1594, provided that: ''Not later than 180 days after the date of the enactment of this Act [Aug. 23, 1994], the Secretary shall complete a rulemaking proceeding and issue a final decision on whether there should be a reduction in the annualized rate now required by the Secretary of random testing for prohibited drugs for personnel engaged in aviation activities.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45104, 45105 of this title.

§ 45103. Prohibited service

(a) USE OF ALCOHOL OR A CONTROLLED SUBSTANCE.—An individual may not use alcohol or a controlled substance after October 28, 1991, in violation of law or a United States Government regulation and serve as an airman, crewmember, airport security screening contract employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator of the Federal Aviation Administration), or employee of the Administration with responsibility for safety-sensitive functions.

(b) REHABILITATION REQUIRED TO RESUME SERVICE.—Notwithstanding subsection (a) of this section, an individual found to have used alcohol or a controlled substance after October 28, 1991, in violation of law or a Government regulation may serve as an airman, crewmember, airport security screening contract employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator), or employee of the Administration with responsibility for safety-sensitive functions only if the individual completes a rehabilitation program described in section 45105 of this title.

(c) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—An individual who served as an airman, crewmember, airport security screening contract employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator), or employee of the Administration with responsibility for safety-sensitive functions and who was found by the Administrator to have used alcohol or a controlled substance after October 28, 1991, in violation of law or a Government regulation may not carry out the duties related to air transportation that the individual carried out before the finding of the Administrator if the individual—

(1) used the alcohol or controlled substance when on duty;

(2) began or completed a rehabilitation program described in section 45105 of this title before using the alcohol or controlled substance; or

(3) refuses to begin or complete a rehabilitation program described in section 45105 of this title after a finding by the Administrator under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1222.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45103(a)	49 App.:1434(b)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(b); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 954.
45103(b)	49 App.:1434(b)(2).	
45103(c)	49 App.:1434(b)(3).	

In subsection (b), the words ''Notwithstanding subsection (a) of this section'' are added for clarity.

§ 45104. Testing and laboratory requirements

In carrying out section 45102 of this title, the Administrator of the Federal Aviation Administration shall develop requirements that—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this chapter, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this chapter;

(3) require that a laboratory involved in controlled substances testing under this chapter have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in viola-

tion of law or a United States Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this chapter; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1222.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45104	49 App.:1434(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(d); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 955.

In this section, the word ''samples'' is omitted as surplus.

In clause (2), before subclause (A), the word ''subsequent'' is omitted as surplus.

In clause (3), the words ''of any individual'' are omitted as surplus.

In clause (4), the words ''by any individual'' are omitted as surplus.

In clause (5), the word ''tested'' is substituted for ''assayed'' for consistency. The words ''2d confirmation test'' are substituted for ''independent test'' for clarity and consistency.

In clause (6), the word ''Secretary'' is substituted for ''Department'' for consistency in the revised title and with other titles of the United States Code.

§ 45105. Rehabilitation

(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS.—The Administrator of the Federal Aviation Administration shall prescribe regulations establishing requirements for rehabilitation programs that at least provide for the identification and opportunity for treatment of employees of air carriers and foreign air carriers referred to in section 45102(a)(1) of this title who need assistance in resolving problems with the use of alcohol or a controlled substance in violation of law or a United States Government regulation. Each air carrier and foreign air carrier is encouraged to make such a program available to all its employees in addition to the employees referred to in section 45102(a)(1). The Administrator shall decide on the circumstances under which employees shall be required to participate in a program. This subsection does not prevent an air carrier or foreign air carrier from establishing a program under this subsection in cooperation with another air carrier or foreign air carrier.

(b) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION.—The Administrator shall establish and maintain a rehabilitation program that at least provides for the identification and opportunity for treatment of employees of the Administration whose duties include responsibility for safety-sensitive functions who need assistance in resolving problems with the use of alcohol or a controlled substance.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1223; Pub. L. 103–429, § 6(58), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45105(a)	49 App.:1434(c)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(c); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 954.
45105(b)	49 App.:1434(c)(2).	

In subsection (a), the words ''of air carriers and foreign air carriers'' are added for clarity.

PUB. L. 103–429

This amends 49:45105(a) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1224).

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429 substituted ''section 45102(a)(1)'' for ''section 45102(a)(1)(A)'' in second sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45103 of this title.

§ 45106. Relationship to other laws, regulations, standards, and orders

(a) EFFECT ON STATE AND LOCAL GOVERNMENT LAWS, REGULATIONS, STANDARDS, OR ORDERS.—A State or local government may not prescribe, issue, or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this chapter. However, a regulation prescribed under this chapter does not preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(b) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS.—(1) In prescribing regulations under this

chapter, the Administrator of the Federal Aviation Administration—

(A) shall establish only requirements applicable to foreign air carriers that are consistent with international obligations of the United States; and

(B) shall consider applicable laws and regulations of foreign countries.

(2) The Secretaries of State and Transportation jointly shall request the governments of foreign countries that are members of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit crewmembers in international civil aviation from using alcohol or a controlled substance in violation of law or a United States Government regulation.

(c) OTHER REGULATIONS ALLOWED.—This section does not prevent the Administrator from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by airmen, crewmembers, airport security screening contract employees, air carrier employees responsible for safety-sensitive functions (as decided by the Administrator), or employees of the Administration with responsibility for safety-sensitive functions.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45106(a)	49 App.:1434(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(e); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 956.
45106(b)	49 App.:1434(e)(3).	
45106(c)	49 App.:1434(e)(2).	

In subsection (a), the word ''prescribe'' is substitued for ''adopt'' for consistency in the revised title and with other titles of the United States Code. The word ''rule'' is omitted as being synonymous with ''regulation''. The word ''ordinance'' is omitted as being included in ''law'' and ''regulation''. The words ''actual'' and ''whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public'' are omitted as surplus.

In subsection (c) the word ''prevent'' is substituted for ''restrict the discretion of'' to eliminate unnecessary words.

CHAPTER 453—FEES

Sec.
45301. Authority to impose fees.
45302. Fees involving aircraft not providing air transportation.
45303. Maximum fees for private person services.

§ 45301. Authority to impose fees

(a) GENERAL AUTHORITY.—The Secretary of Transportation may impose a fee for an approval, test, authorization, certificate, permit, registration, transfer, or rating related to aviation that has not been approved by Congress only when the fee—

(1)(A) was in effect on January 1, 1973; and

(B) is not more than the fee in effect on January 1, 1973, adjusted in proportion to changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor between January 1, 1973, and the date the fee is imposed; or

(2) is imposed under section 45302 of this title.

(b) NONAPPLICATION.—Subsection (a) does not apply to a fee for a test, authorization, certificate, permit, or rating related to an airman or repair station administered or issued outside the United States.

(c) RECOVERY OF COST OF FOREIGN AVIATION SERVICES.—

(1) ESTABLISHMENT OF FEES.—The Administrator may establish and collect fees for providing or carrying out the following aviation services outside the United States: any test, authorization, certificate, permit, rating, evaluation, approval, inspection, review.

(2) FOREIGN REPAIR STATION CERTIFICATION AND INSPECTION FEES.—The Administrator must establish and collect under this subsection fees for certification and inspection of repair stations outside of the United States.

(3) LEVEL OF FEES.—Fees shall be established under this subsection as necessary to recover the additional cost of providing or carrying out such services outside the United States, as compared to the cost of providing or carrying out such services within the United States; except that the Administrator may for such services as the Administrator designates (and shall for certification and inspection of repair stations outside the United States) establish fees at a level necessary to recover the full cost of providing such services.

(4) EFFECT ON OTHER AUTHORITY.—The provisions of this subsection do not limit the Administrator's authority to establish and collect fees under subsection (a).

(5) CREDITING OF PREESTABLISHED FEES.—Fees described in paragraph (1) that were not established before the date of the enactment of this subsection may be credited in accordance with section 45302(d).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103–305, title II, § 209, Aug. 23, 1994, 108 Stat. 1589.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45301	49:334.	

In this chapter, the words ''Secretary of Labor'' are substituted for ''Bureau of Labor Statistics of the Department of Labor'' because of 29:551 and 557.

This section is in effect a transfer of the text of 49:334 to this section. Section 334 was derived from section 45 of the Airline Deregulation Act of 1978 (Public Law 95–504, 92 Stat. 1753), as amended by section 28 of the International Air Transportation Competition Act of 1979 (Public Law 96–192, 94 Stat. 48).

In subsection (a), before clause (1), the word ''fee'' is substituted for ''charge'' for consistency. In clause (2), the words ''and collected'' are omitted as surplus.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(5), is the date of enactment of Pub. L. 103–305, which was approved Aug. 23, 1994.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–305, § 209(1), substituted ''Subsection (a)'' for ''This section''.

Subsec. (c). Pub. L. 103–305, § 209(2), added subsec. (c).

§ 45302. Fees involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL AUTHORITY AND MAXIMUM FEES.—The Administrator of the Federal Aviation Administration may impose fees to pay for the costs of issuing airman certificates to pilots and certificates of registration of aircraft and processing forms for major repairs and alterations of fuel tanks and fuel systems of aircraft. The following fees may not be more than the amounts specified:

(1) $12 for issuing an airman's certificate to a pilot.

(2) $25 for registering an aircraft after the transfer of ownership.

(3) $15 for renewing an aircraft registration.

(4) $7.50 for processing a form for a major repair or alteration of a fuel tank or fuel system of an aircraft.

(c) ADJUSTMENTS.—The Administrator shall adjust the maximum fees established by subsection (b) of this section for changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor.

(d) CREDIT TO ACCOUNT AND AVAILABILITY.—Money collected from fees imposed under this section shall be credited to the account in the Treasury from which the Administrator incurs expenses in carrying out chapter 441 and sections 44701–44716 of this title (except sections 44701(c), 44703(f)(2), and 44713(d)(2)). The money is available to the Administrator to pay expenses for which the fees are collected.

(e) EFFECTIVE DATE.—A fee may not be imposed under this section before the date on which the regulations prescribed under sections 44111(d), 44703(f)(2), and 44713(d)(2) of this title take effect.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103–429, § 6(59), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45302(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
45302(b), (c)	49 App.:1354(f) (1)–(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 313(f); added Nov. 18, 1988, Pub. L. 100–690, § 7207(c)(1), 102 Stat. 4427.
45302(d)	49 App.:1354(f)(4).	

In subsection (b), before clause (1), the text of 49 App.:1354(f)(3) is omitted as obsolete because the final regulations are effective. The word "impose" is substituted for "establish and collect" for consistency.

In subsection (d), the words "Money collected from fees imposed" are substituted for "The amount of fees collected" for clarity and consistency.

PUB. L. 103–429

This amends 49:45302 because the final regulations are not yet effective.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–429 added subsec. (e).

EFFECTIVE DATE OF 1994 AMENDMENT

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

GAO AUDIT

Pub. L. 100–690, title VII, § 7207(c)(4), Nov. 18, 1988, 102 Stat. 4428, provided that: "During the 5-year period beginning after the date on which fees are first collected under section 313(f) of the Federal Aviation Act of 1958 [see subsec. (b) of this section], the Comptroller General shall conduct an annual audit of the collection and use of such fees for the purpose of ensuring that such fees do not exceed the costs for which they are collected and submit to Congress a report on the results of such audit."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 45301 of this title.

§ 45303. Maximum fees for private person services

The Administrator of the Federal Aviation Administration may establish maximum fees that private persons may charge for services performed under a delegation to the person under section 44702(d) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1225.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45303	49 App.:1355(a) (last sentence related to fees). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, § 314(a) (last sentence related to fees), 72 Stat. 754. Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, the word "Administrator" in section 314(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 754) is retained on authority of 49:106(g). The words "services performed under a delegation to the person under section 44702(d) of this title" are substituted for "their services" because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

SUBPART IV—ENFORCEMENT AND PENALTIES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 40101 of this title.

CHAPTER 461—INVESTIGATIONS AND PROCEEDINGS

Sec.
46101. Complaints and investigations.
46102. Proceedings.
46103. Service of notice, process, and actions.
46104. Evidence.
46105. Regulations and orders.
46106. Enforcement by the Secretary of Transportation and Administrator of the Federal Aviation Administration.
46107. Enforcement by the Attorney General.
46108. Enforcement of certificate requirements by interested persons.
46109. Joinder and intervention.
46110. Judicial review.

§ 46101. Complaints and investigations

(a) GENERAL.—(1) A person may file a complaint in writing with the Secretary of Trans-

portation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) about a person violating this part or a requirement prescribed under this part. Except as provided in subsection (b) of this section, the Secretary or Administrator shall investigate the complaint if a reasonable ground appears to the Secretary or Administrator for the investigation.

(2) On the initiative of the Secretary of Transportation or the Administrator, as appropriate, the Secretary or Administrator may conduct an investigation, if a reasonable ground appears to the Secretary or Administrator for the investigation, about—

(A) a person violating this part or a requirement prescribed under this part; or

(B) any question that may arise under this part.

(3) The Secretary of Transportation or Administrator may dismiss a complaint without a hearing when the Secretary or Administrator is of the opinion that the complaint does not state facts that warrant an investigation or action.

(4) After notice and an opportunity for a hearing and subject to section 40105(b) of this title, the Secretary of Transportation or Administrator shall issue an order to compel compliance with this part if the Secretary or Administrator finds in an investigation under this subsection that a person is violating this part.

(b) COMPLAINTS AGAINST MEMBERS OF ARMED FORCES.—The Secretary of Transportation or Administrator shall refer a complaint against a member of the armed forces of the United States performing official duties to the Secretary of the department concerned for action. Not later than 90 days after receiving the complaint, the Secretary of that department shall inform the Secretary of Transportation or Administrator of the action taken on the complaint, including any corrective or disciplinary action taken.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1226.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46101(a)(1) ..	49 App.:1482(a) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, §1002(a), (b), 72 Stat. 788.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46101(a)(2) ..	49 App.:1482(b).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(a)(3) ..	49 App.:1482(a) (3d sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(a)(4) ..	49 App.:1482(c).	Aug. 23, 1958, Pub. L. 85–726, §1002(c), 72 Stat. 789; Feb. 15, 1980, Pub. L. 96–192, §25, 94 Stat. 47.
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(b)	49 App.:1482(a) (4th, last sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsection (a)(1), the words ''the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) about a person violating this part or a requirement prescribed under this part'' are substituted for ''the Secretary of Transportation or the Board, as to matters within their respective jurisdictions . . . with respect to anything done or omitted to be done by any person in contravention of any provisions of this chapter, or of any requirement established pursuant thereto'' for clarity and because of the restatement. The words ''Except as provided in subsection (b) of this section'' are added because of the restatement of the source provisions in subsection (b) of this section. The words ''If the person complained against shall not satisfy the complaint and'' are omitted as surplus.

In subsection (a)(2), before clause (A), the words ''the Secretary of Transportation or the Administrator, as appropriate'' are substituted for ''The Secretary of Transportation or Board, with respect to matters within their respective jurisdictions'' to eliminate unnecessary words. The words ''if a reasonable ground appears to the Secretary or Administrator for the investigation'' are substituted for 49 App.:1482(b) (last sentence) for clarity and to eliminate unnecessary words. Clause (A) is substituted for ''in any case and as to any matter or thing within their respective jurisdictions, concerning which complaint is authorized to be made to or before the Secretary of Transportation or Board by any provision of this chapter . . . or relating to the enforcement of any of the provisions of this chapter'' for clarity and to eliminate unnecessary words.

In subsection (a)(4), the words ''an opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code. The words ''compel compliance with this part'' are substituted for ''compel such person to comply therewith'' for clarity. The words ''in an investigation under this subsection'' are substituted for ''in any investigation instituted upon complaint or upon their own initiative'' to eliminate unnecessary words. The words ''is violating this part'' are substituted for ''has failed to comply with any provision of this chapter or any requirement established pursuant thereto'' for clarity and to eliminate unnecessary words. The words ''with respect to matters within their jurisdiction'' are omitted as unnecessary because of the restatement.

§ 46102. Proceedings

(a) CONDUCTING PROCEEDINGS.—Subject to subchapter II of chapter 5 of title 5, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may conduct proceedings in a way conducive to justice and the proper dispatch of business.

(b) APPEARANCE.—A person may appear and be heard before the Secretary and the Administrator in person or by an attorney. The Secretary may appear and participate as an interested party in a proceeding the Administrator conducts under section 40113(a) of this title.

(c) RECORDING AND PUBLIC ACCESS.—Official action taken by the Secretary and Administrator under this part shall be recorded. Proceedings before the Secretary and Administrator shall be open to the public on the request of an interested party unless the Secretary or Administrator decides that secrecy is required because of national defense.

(d) CONFLICTS OF INTEREST.—The Secretary, the Administrator, or an officer or employee of the Administration may not participate in a

proceeding referred to in subsection (a) of this section in which the individual has a pecuniary interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1226.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46102(a)	49 App.:1481 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1001, 72 Stat. 788.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46102(b)	49 App.:1481 (3d, 4th sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46102(c)	49 App.:1481 (last sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46102(d)	49 App.:1481 (2d sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsection (a), the cross-reference to chapter 7 of title 5 is omitted as unnecessary.

In subsection (b), the text of 49 App.:1481 (4th sentence words after last comma) is omitted as obsolete. The words ''National Transportation Safety Board'' were substituted for ''Board'' in 49 App.:1481 (4th sentence) because 49 App.:1655(d) transferred all functions, duties, and powers of the Civil Aeronautics Board under titles VI and VII of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775) to the Secretary of Transportation to be carried out through the former National Transportation Safety Board in the Department of Transportation. Title VI includes sections 602 and 609 [49 App.:1422, 1429], that provide for appeals to the Civil Aeronautics Board (subsequently transferred to the National Transportation Safety Board), and section 611(e) [49 App.:1431(e)], that provides for appeals to the National Transportation Safety Board. Under 49 App.:1902(a), the National Transportation Safety Board in the Department of Transportation was replaced by an independent National Transportation Safety Board outside the Department, and 49 App.:1903(a)(9)(A) gave the independent Board the authority to review appeals from actions of the Secretary under 49 App.:1422, 1429, and 1431(e).

In subsection (c), the words ''vote and'' are omitted as surplus.

In subsection (d), the words ''officer or employee of the Administration'' are substituted for ''member'' for clarity and consistency in the revised title and with other titles of the United States Code. The words ''hearing or'' are omitted as surplus. The words ''referred to in subsection (a) of this section'' are added for clarity.

§ 46103. Service of notice, process, and actions

(a) DESIGNATING AGENTS.—(1) Each air carrier and foreign air carrier shall designate an agent on whom service of notice and process in a proceeding before, and an action of, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may be made.

(2) The designation—

(A) shall be in writing and filed with the Secretary or Administrator; and

(B) may be changed in the same way as originally made.

(b) SERVICE.—(1) Service may be made—

(A) by personal service;

(B) on a designated agent; or

(C) by certified or registered mail to the person to be served or the designated agent of the person.

(2) The date of service made by certified or registered mail is the date of mailing.

(c) SERVING AGENTS.—Service on an agent designated under this section shall be made at the office or usual place of residence of the agent. If an air carrier or foreign air carrier does not have a designated agent, service may be made by posting the notice, process, or action in the office of the Secretary or Administrator.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1227.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46103(a)	49 App.:1485(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1005(b), 72 Stat. 794..
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46103(b)	49 App.:1485(c).	Aug. 23, 1958, Pub. L. 85–726, § 1005(c), 72 Stat. 794; restated Aug. 25, 1959, Pub. L. 86–199, 73 Stat. 427.
46103(c)	49 App.:1485(b) (last sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsection (a)(1), the words ''in a proceeding before'' are added for clarity. The word ''action'' is substituted for ''orders, decisions, and requirements'' to eliminate unnecessary words. The words ''for and on behalf of said carrier'' are omitted as surplus.

In subsection (a)(2)(B), the words ''from time to time'' are omitted as surplus.

In subsection (b)(1)(B), the words ''in writing for the purpose'' are omitted as surplus.

In subsection (b)(1)(C), the word ''addressed'' is omitted as surplus.

In subsection (b)(2), the word ''date'' is substituted for ''time'' for clarity and consistency.

In subsection (c), the words ''with like effect as if made personally upon such carrier'' are omitted as surplus.

§ 46104. Evidence

(a) GENERAL.—In conducting a hearing or investigation under this part, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may—

(1) subpena witnesses and records related to a matter involved in the hearing or investigation from any place in the United States to the designated place of the hearing or investigation;

(2) administer oaths;

(3) examine witnesses; and

(4) receive evidence at a place in the United States the Secretary or Administrator designates.

(b) COMPLIANCE WITH SUBPENAS.—If a person disobeys a subpena, the Secretary, the Administrator, or a party to a proceeding before the Secretary or Administrator may petition a court of the United States to enforce the subpena. A judicial proceeding to enforce a subpena under this section may be brought in the jurisdiction in which the proceeding or investigation is conducted. The court may punish a failure to obey an order of the court to comply with the subpena as a contempt of court.

(c) DEPOSITIONS.—(1) In a proceeding or investigation, the Secretary or Administrator may order a person to give testimony by deposition and to produce records. If a person fails to be deposed or to produce records, the order may be enforced in the same way a subpena may be enforced under subsection (b) of this section.

(2) A deposition may be taken before an individual designated by the Secretary or Administrator and having the power to administer oaths.

(3) Before taking a deposition, the party or the attorney of the party proposing to take the deposition must give reasonable notice in writing to the opposing party or the attorney of record of that party. The notice shall state the name of the witness and the time and place of taking the deposition.

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

(5) If the laws of a foreign country allow, the testimony of a witness in that country may be taken by deposition—

(A) by a consular officer or an individual commissioned by the Secretary or Administrator or agreed on by the parties by written stipulation filed with the Secretary or Administrator; or

(B) under letters rogatory issued by a court of competent jurisdiction at the request of the Secretary or Administrator.

(d) WITNESS FEES AND MILEAGE AND CERTAIN FOREIGN COUNTRY EXPENSES.—A witness summoned before the Secretary or Administrator or whose deposition is taken under this section and the individual taking the deposition are each entitled to the same fee and mileage that the witness and individual would have been paid for those services in a court of the United States. Under regulations of the Secretary or Administrator, the Secretary or Administrator shall pay the necessary expenses incident to executing, in another country, a commission or letter rogatory issued at the initiative of the Secretary or Administrator.

(e) DESIGNATING EMPLOYEES TO CONDUCT HEARINGS.—When designated by the Secretary or Administrator, an employee appointed under section 3105 of title 5 may conduct a hearing, subpena witnesses, administer oaths, examine witnesses, and receive evidence at a place in the United States the Secretary or Administrator designates. On request of a party, the Secretary or Administrator shall hear or receive argument.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1227.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46104(a)	49 App.:1354(c) (related to this chapter).	Aug. 23, 1958, Pub. L. 85–726, §§ 313(c) (related to this Act), 1004(a)–(h), 72 Stat. 753, 792.
	49 App.:1484(a) (related to member of the Board), (b) (1st sentence), (c) (1st sentence).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46104(b)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(c) (last sentence), (d).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(1) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (1st, last sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(2) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (2d sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(3) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (3d sentence).	
	49 App.:1655(c)(1).	
46104(c)(4) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(f).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(5) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(g).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(d)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(b) (last sentence), (h).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(e)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(a) (related to examiner).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 313(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g).

Subsection (a)(1) is substituted for ''sign and issue subpenas'', ''shall have the power to require by subpena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation'', and ''The attendance of witnesses, and the production of books, papers, and documents, may be required from any place in the United States, at any designated place of hearing'' in 49 App.:1484 for clarity and consistency in the revised title

and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (b), the words ''petition a court of the United States to enforce the subpena'' are substituted for ''invoke the aid of any court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this section'' in 49 App.:1484(c) to eliminate unnecessary words. The words ''to enforce a subpena under this section'' are substituted for ''in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Board (and produce books, papers, or documents if so ordered) and give evidence touching the matter in question'' in 49 App.:1484(d) to eliminate unnecessary words.

In subsection (c)(1), the words ''pending before it, at any stage of such proceeding or investigation'' in 49 App.:1484(e) are omitted as surplus. The words ''a person to give'' are substituted for ''to be taken'', and the words ''to produce records'' are added, for clarity and consistency. The last sentence is substituted for 49 App.:1484(e) (last sentence) for clarity and consistency and to eliminate unnecessary words.

In subsection (c)(4), the words ''shall be cautioned . . . to testify the whole truth, and shall be carefully examined'' in 49 App.:1484(f) are omitted as surplus. The words ''shall be under oath'' are substituted for ''shall be required to swear (or affirm, if he so requests)'' for consistency and because of 1:1.

In subsection (d), the words ''that the witness and individual would have been'' are added for clarity and consistency in the revised title and with other titles of the Code. The words ''fees, charges, or'' and ''on the subject'' are omitted as surplus.

In subsection (e), the words ''duly . . . for such purpose'' are omitted as surplus. The words ''employee appointed under section 3105 of title 5'' are substituted for ''examiner'', and the words ''subpena witnesses'' are substituted for ''sign and issue subpenas'', for consistency in the revised title and with other titles of the Code. The words ''In all cases heard by an examiner or a single member'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 47122 of this title.

§ 46105. Regulations and orders

(a) EFFECTIVENESS OF ORDERS.—Except as provided in this part, a regulation prescribed or order issued by the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) takes effect within a reasonable time prescribed by the Secretary or Administrator. The regulation or order remains in effect under its own terms or until superseded. Except as provided in this part, the Secretary or Administrator may amend, modify, or suspend an order in the way, and by giving the notice, the Secretary or Administrator decides.

(b) CONTENTS AND SERVICE OF ORDERS.—An order of the Secretary or Administrator shall include the findings of fact on which the order is based and shall be served on the parties to the proceeding and the persons affected by the order.

(c) EMERGENCIES.—When the Administrator is of the opinion that an emergency exists related to safety in air commerce and requires immediate action, the Administrator, on the initiative of the Administrator or on complaint, may prescribe regulations and issue orders immediately to meet the emergency, with or without notice and without regard to this part and subchapter II of chapter 5 of title 5. The Administrator shall begin a proceeding immediately about an emergency under this subsection and give preference, when practicable, to the proceeding.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1228.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46105(a)	49 App.:1485(a) (words before 1st proviso), (d), (e).	Aug. 23, 1958, Pub. L. 85–726, § 1005(a), (d)–(f), 72 Stat. 794.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46105(b)	49 App.:1485(f).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46105(c)	49 App.:1485(a) (provisos).	
	49 App.:1655(c)(1).	

In subsection (a), the words ''under its own terms or until superseded'' are substituted for ''until their further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation'' for clarity and to eliminate unnecessary words. The word ''amend'' is added for consistency in the revised title. The text of 49 App.:1485(e) is omitted as surplus.

In subsection (c), the words ''without complaint'' and ''if he so orders'' are omitted as surplus. The words ''prescribe . . . issue'' are substituted for ''make'' for consistency in the revised title and with other titles of the United States Code. The words ''just and reasonable'' and ''as may be essential in the interest of safety in air commerce'' are omitted as surplus. The words ''without regard to this part and subchapter II of chapter 5 of title 5'' are substituted for ''without answer or other form of pleading by the interested person or persons, and . . . hearing, or the making or filing of a report'' to eliminate unnecessary words. The words ''over all others under this chapter'' are omitted as surplus.

§ 46106. Enforcement by the Secretary of Transportation and Administrator of the Federal Aviation Administration

The Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may bring a civil action against a person in a district court of the United States to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part. The action may be brought in the judicial district in which the person does business or the violation occurred.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1229.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46106	49 App.:1487(a) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, § 1007(a) (related to Administrator and CAB), 72 Stat. 796.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

The words ''their duly authorized agents'' are omitted as surplus. The words ''may bring a civil action'' are substituted for ''may apply'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The word ''prescribed'' is added for consistency in the revised title and with other titles of the Code. The words ''condition, or limitation'' are omitted as being included in ''term''. The text of 49 App.:1487(a) (words after semicolon related to Secretary and CAB) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure (28 App. U.S.C.).

§ 46107. Enforcement by the Attorney General

(a) CIVIL ACTIONS TO ENFORCE SECTION 40106(b).—The Attorney General may bring a civil action in a district court of the United States against a person to enforce section 40106(b) of this title. The action may be brought in the judicial district in which the person does business or the violation occurred.

(b) CIVIL ACTIONS TO ENFORCE THIS PART.—(1) On request of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator), the Attorney General may bring a civil action in an appropriate court—

(A) to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part; and

(B) to prosecute a person violating this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part.

(2) The costs and expenses of a civil action shall be paid out of the appropriations for the expenses of the courts of the United States.

(c) PARTICIPATION OF SECRETARY OR ADMINISTRATOR.—On request of the Attorney General, the Secretary or Administrator, as appropriate, may participate in a civil action under this part.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1229.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
46107(a)	49 App.:1487(a) (related to Attorney General).	Aug. 23, 1958, Pub. L. 85–726, §1007(a) (related to Attorney General), 72 Stat. 796; Aug. 5, 1974, Pub. L. 93–366, §108, 88 Stat. 414.
46107(b)	49 App.:1487(b) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §§1007(b) (related to Administrator and CAB), 1008 (related to Administrator and CAB), 72 Stat. 796.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46107(c)	49 App.:1488 (related to Secretary and CAB).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsection (a), the words ''may bring a civil action'' are substituted for ''may apply'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The text of 49 App.:1487(a) (words after semicolon related to Attorney General) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure.

In subsection (b)(1), before clause (A), the words ''Attorney General'' are substituted for ''any district attorney of the United States to whom the Board or Secretary of Transportation may apply'', and the words ''under the direction of the Attorney General'' are omitted, because of 28:503 and 509. The words ''bring a civil action'' are substituted for ''institute . . . and to prosecute . . . all necessary proceedings'' for consistency in the revised title and with other titles of the Code and rule 2 of the Federal Rules of Civil Procedure. In clauses (A) and (B), the words ''prescribed'' and ''issued'' are added for consistency in the revised title and with other titles of the Code. The words ''condition, or limitation'' are omitted as being included in ''term''.

In subsection (b)(2), the words ''civil action'' are substituted for ''prosecutions'' for consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''civil action'' are substituted for ''proceeding in court'' for consistency in the revised title and with other titles of the Code and rule 2 of the Federal Rules of Civil Procedure.

§ 46108. Enforcement of certificate requirements by interested persons

An interested person may bring a civil action in a district court of the United States against a person to enforce section 41101(a)(1) of this title. The action may be brought in the judicial district in which the defendant does business or the violation occurred.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1229.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
46108	49 App.:1487(a) (related to party in interest).	Aug. 23, 1958, Pub. L. 85–726, §1007(a) (related to party in interest), 72 Stat. 796.

The words ''interested person'' are substituted for ''party in interest'' for consistency. The words ''may bring a civil action'' are substituted for ''may apply'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The text of 49 App.:1487(a) (words after semicolon related to party in interest) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure.

§ 46109. Joinder and intervention

A person interested in or affected by a matter under consideration in a proceeding before the Secretary of Transportation or civil action to enforce this part or a requirement or regulation

prescribed, or an order or any term of a certificate or permit issued, under this part may be joined as a party or permitted to intervene in the proceeding or civil action.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1230.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46109	49 App.:1489.	Aug. 23, 1958, Pub. L. 85–726, § 1009, 72 Stat. 796.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

The words ''proceeding . . . or civil action'' are substituted for ''proceeding . . . whether such proceedings be instituted . . . or be begun originally in any court of the United States'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''prescribed . . . issued'' are added for consistency in the revised title and with other titles of the Code. The words ''condition, or limitation'' are omitted as being included in ''term''. The words ''may be joined as a party or permitted to intervene'' are substituted for ''it shall be lawful to include as parties, or to permit the intervention of'' for clarity. The text of 49 App.:1489 (words after semicolon) is omitted as surplus.

§ 46110. Judicial review

(a) FILING AND VENUE.—Except for an order related to a foreign air carrier subject to disapproval by the President under section 41307 or 41509(f) of this title, a person disclosing a substantial interest in an order issued by the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or Administrator, as appropriate. The Secretary or Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or Administrator to conduct further proceedings. After reasonable notice to the Secretary or Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or Administrator, if supported by substantial evidence, are conclusive.

(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing an order under this section, the court may consider an objection to an order of the Secretary or Administrator only if the objection was made in the proceeding conducted by the Secretary or Administrator or if there was a reasonable ground for not making the objection in the proceeding.

(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1230.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46110(a)	49 App.:1486(a), (b) (as 1486(a), (b) relates to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, § 1006(a), (b), (e), (f) (as § 1006(a), (b), (e), (f) relates to Administrator and CAB), 72 Stat. 795.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46110(b)	49 App.:1486(c) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, § 1006(c) (related to Administrator and CAB), 72 Stat. 795; restated June 29, 1960, Pub. L. 86–546, § 1, 74 Stat. 255.
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46110(c)	49 App.:1486(d) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, § 1006(d) (related to Administrator and CAB), 72 Stat. 795; restated Sept. 13, 1961, Pub. L. 87–225, § 2, 75 Stat. 497.
	49 App.:1486(e) (1st sentence related to Secretary and CAB).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46110(d)	49 App.:1486(e) (last sentence) (related to Secretary and CAB).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46110(e)	49 App.:1486(f) (related to Secretary and CAB).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsections (a)–(d), the word ''Administrator'' in section 1006 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 795) is retained on authority of 49:106(g).

In subsection (a), the words ''affirmative or negative'' are omitted as surplus. The words ''is issued'' are substituted for ''the entry of'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''if any'' are omitted as surplus. The words ''of any proceeding'' are added for clarity. The words ''complained of'' are omitted as surplus.

In subsection (c), the word ''amend'' is added for consistency in the revised title. The word ''interim'' is substituted for ''interlocutory'' for clarity. The words ''taking other appropriate action'' are substituted for ''by such mandatory or other relief as may be appropriate'' for clarity and to eliminate unnecessary words.

In subsection (d), the words ''made in the proceeding conducted by'' are substituted for ''urged before'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1153, 41108, 41307, 44106, 44709, 44710, 46301, 47532 of this title.

CHAPTER 463—PENALTIES

Sec.
46301. Civil penalties.
46302. False information.
46303. Carrying a weapon.
46304. Liens on aircraft.
46305. Actions to recover civil penalties.
46306. Registration violations involving aircraft not providing air transportation.
46307. Violation of national defense airspace.
46308. Interference with air navigation.
46309. Concession and price violations.
46310. Reporting and recordkeeping violations.
46311. Unlawful disclosure of information.
46312. Transporting hazardous material.
46313. Refusing to appear or produce records.
46314. Entering aircraft or airport area in violation of security requirements.
46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation.
46316. General criminal penalty when specific penalty not provided.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 47531 of this title.

§ 46301. Civil penalties

(a) GENERAL PENALTY.—(1) A person is liable to the United States Government for a civil penalty of not more than $1,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 411, any of sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742, chapter 419, subchapter II of chapter 421, chapter 441 (except section 44109), or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44909(a), 44912–44915, 44932–44938, 46302, 46303, 47107(b) (including any assurance made under such section), or 41715 of this title;

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies;

(C) any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title; or

(D) a regulation of the United States Postal Service under this part.

(2) A person operating an aircraft for the transportation of passengers or property for compensation (except an airman serving as an airman) is liable to the Government for a civil penalty of not more than $10,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117) or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44912–44915, or 44932–44938 of this title; or

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(3) A civil penalty of not more than $10,000 may be imposed for each violation under paragraph (1) of this subsection related to—

(A) the transportation of hazardous material; or

(B) the registration or recordation under chapter 441 of this title of an aircraft not used to provide air transportation.

(4) A separate violation occurs under this subsection for each day the violation (other than a violation of section 41715) continues or, if applicable, for each flight involving the violation (other than a violation of section 41715).

(5) In the case of a violation of section 47107(b) of this title, the maximum civil penalty for a continuing violation shall not exceed $50,000.

(6) Notwithstanding paragraph (1), the maximum civil penalty for violating section 41715 shall be $5,000 instead of $1,000.

(b) SMOKE ALARM DEVICE PENALTY.—(1) A passenger may not tamper with, disable, or destroy a smoke alarm device located in a lavatory on an aircraft providing air transportation or intrastate air transportation.

(2) An individual violating this subsection is liable to the Government for a civil penalty of not more than $2,000.

(c) PROCEDURAL REQUIREMENTS.—(1) The Secretary of Transportation may impose a civil penalty for the following violations only after notice and an opportunity for a hearing:

(A) a violation of subsection (b) of this section or chapter 411, any of sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742, chapter 419, or subchapter II of chapter 421 of this title.

(B) a violation of a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(C) a violation of any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title.

(D) a violation under subsection (a)(1) of this section related to the transportation of hazardous material.

(2) The Secretary shall give written notice of the finding of a violation and the civil penalty under paragraph (1) of this subsection.

(d) ADMINISTRATIVE IMPOSITION OF PENALTIES.—(1) In this subsection—

(A) ''flight engineer'' means an individual who holds a flight engineer certificate issued under part 63 of title 14, Code of Federal Regulations.

(B) ''mechanic'' means an individual who holds a mechanic certificate issued under part 65 of title 14, Code of Federal Regulations.

(C) ''pilot'' means an individual who holds a pilot certificate issued under part 61 of title 14, Code of Federal Regulations.

(D) ''repairman'' means an individual who holds a repairman certificate issued under part 65 of title 14, Code of Federal Regulations.

(2) The Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), chapter 441 (except section 44109), or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, 44932–44938, 46302, 46303, or 47107(b) (as further defined by the Secretary under section 47107(*l*) and including

any assurance made under section 47107(b)) of this title or a regulation prescribed or order issued under any of those provisions. The Administrator shall give written notice of the finding of a violation and the penalty.

(3) In a civil action to collect a civil penalty imposed by the Administrator under this subsection, the issues of liability and the amount of the penalty may not be reexamined.

(4) Notwithstanding paragraph (2) of this subsection, the district courts of the United States have exclusive jurisdiction of a civil action involving a penalty the Administrator initiates if—

(A) the amount in controversy is more than $50,000;

(B) the action is in rem or another action in rem based on the same violation has been brought;

(C) the action involves an aircraft subject to a lien that has been seized by the Government; or

(D) another action has been brought for an injunction based on the same violation.

(5)(A) The Administrator may issue an order imposing a penalty under this subsection against an individual acting as a pilot, flight engineer, mechanic, or repairman only after advising the individual of the charges or any reason the Administrator relied on for the proposed penalty and providing the individual an opportunity to answer the charges and be heard about why the order shall not be issued.

(B) An individual acting as a pilot, flight engineer, mechanic, or repairman may appeal an order imposing a penalty under this subsection to the National Transportation Safety Board. After notice and an opportunity for a hearing on the record, the Board shall affirm, modify, or reverse the order. The Board may modify a civil penalty imposed to a suspension or revocation of a certificate.

(C) When conducting a hearing under this paragraph, the Board is not bound by findings of fact of the Administrator but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(D) When an individual files an appeal with the Board under this paragraph, the order of the Administrator is stayed.

(6) An individual substantially affected by an order of the Board under paragraph (5) of this subsection, or the Administrator when the Administrator decides that an order of the Board under paragraph (5) will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(7)(A) The Administrator may impose a penalty on an individual (except an individual acting as a pilot, flight engineer, mechanic, or repairman) only after notice and an opportunity for a hearing on the record.

(B) In an appeal from a decision of an administrative law judge as the result of a hearing under subparagraph (A) of this paragraph, the Administrator shall consider only whether—

(i) each finding of fact is supported by a preponderance of reliable, probative, and substantial evidence;

(ii) each conclusion of law is made according to applicable law, precedent, and public policy; and

(iii) the judge committed a prejudicial error that supports the appeal.

(C) Except for good cause, a civil action involving a penalty under this paragraph may not be initiated later than 2 years after the violation occurs.

(D) In the case of a violation of section 47107(b) of this title or any assurance made under such section—

(i) a civil penalty shall not be assessed against an individual;

(ii) a civil penalty may be compromised as provided under subsection (f); and

(iii) judicial review of any order assessing a civil penalty may be obtained only pursuant to section 46110 of this title.

(8) The maximum civil penalty the Administrator or Board may impose under this subsection is $50,000.

(9) This subsection applies only to a violation occurring after August 25, 1992.

(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under subsection (a)(3) of this section related to transportation of hazardous material, the Secretary shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(3) other matters that justice requires.

(f) COMPROMISE AND SETOFF.—(1)(A) The Secretary may compromise the amount of a civil penalty imposed for violating—

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, or 44932–44938 of this title; or

(ii) a regulation prescribed or order issued under any provision to which clause (i) of this subparagraph applies.

(B) The Postal Service may compromise the amount of a civil penalty imposed under subsection (a)(1)(D) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(g) JUDICIAL REVIEW.—An order of the Secretary imposing a civil penalty may be reviewed judicially only under section 46110 of this title.

(h) NONAPPLICATION.—(1) This section does not apply to the following when performing official duties:

(A) a member of the armed forces of the United States.

(B) a civilian employee of the Department of Defense subject to the Uniform Code of Military Justice.

(2) The appropriate military authority is responsible for taking necessary disciplinary action and submitting to the Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) a timely report on action taken.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1231; Pub. L. 103–305, title I, § 112(c), title II, § 207(c), Aug. 23, 1994, 108 Stat. 1575, 1588; Pub. L. 103–429, § 6(60), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46301(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
	49 App.:1405 (last sentence).	Aug. 23, 1958, Pub. L. 85–726, § 505 (last sentence), 72 Stat. 774.
	49 App.:1471(a)(1) (1st, 2d sentences less subchapter VII).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(1) (less title VII), 72 Stat. 783; restated July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 149; Aug. 5, 1974, Pub. L. 93–366, § 107, 88 Stat. 414; Jan. 3, 1975, Pub. L. 93–633, § 113(b), 88 Stat. 2162; Oct. 24, 1978, Pub. L. 95–504, § 35(a), 92 Stat. 1740; Aug. 8, 1985, Pub. L. 99–83, § 551(b)(2), 99 Stat. 225; Dec. 30, 1987, Pub. L. 100–223, § 204(a)–(c), 101 Stat. 1519; Nov. 18, 1988, Pub. L. 100–690, § 7208(a), 102 Stat. 4429.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46301(b)	49 App.:1374(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 404(d)(2); added Dec. 22, 1987, Pub. L. 100–202, § 328(a), 101 Stat. 1329–383.
46301(c)	49 App.:1471(a)(1) (3d, 5th sentences less subchapter VII).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
46301(d)(1) ..	49 App.:1471(a)(3)(H).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 901(a)(3) (less (D)(v) (related to Administrator under title VII)); added Nov. 18, 1988, Pub. L. 100–690, § 7208(b), 102 Stat. 4429; restated Aug. 26, 1992, Pub. L. 102–345, § 2(a), 106 Stat. 923; Oct. 31, 1992, Pub. L. 102–581, § 208, 106 Stat. 4895.
46301(d)(2) ..	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
	49 App.:1471(a)(3)(A).	
46301(d)(3) ..	49 App.:1471(a)(3)(B).	
46301(d)(4) ..	49 App.:1471(a)(3)(C).	
46301(d)(5) ..	49 App.:1471(a)(3)(D)(i)–(iv).	
46301(d)(6) ..	49 App.:1471(a)(3)(D)(v) (less Administrator under subch. VII).	
46301(d)(7) ..	49 App.:1471(a)(3)(E).	
46301(d)(8) ..	49 App.:1471(a)(3)(G).	
46301(d)(9) ..	49 App.:1471(a)(3)(F).	
46301(e)	49 App.:1471(a)(1) (4th sentence less subchapter VII).	

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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46301(f)	49 App.:1471(a)(2) (related to subchapter III, V, VI, or XII, § 1501, 1514, or 1515(e)(2)(B), and Postal Service).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(2) (related to title III, V, VI, or XII, § 1101, 1114, or 1115(e)(2)(B), and Postmaster General), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, § 35(b), 92 Stat. 1740; Dec. 30, 1987, Pub. L. 100–223, § 204(d), 101 Stat. 1519.
	49 App.:1551(b)(1)(E).	
46301(g)	49 App.:1471(a)(1) (6th sentence less subchapter VII).	
	49 App.:1551(b)(1)(E).	
46301(h)	49 App.:1471(a)(1) (last sentence less subchapter VII).	
	49 App.:1551(b)(1)(E).	

In this section, the word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The words ''United States Postal Service'' and ''Postal Service'' are substituted for ''Postmaster General'' because of section 4(a) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773).

In subsections (a)(1)(C) and (c), the words ''condition, or limitation'' are omitted as surplus.

In subsection (a)(2), before clause (A), the words ''occurring after December 30, 1987'' are omitted as obsolete.

In subsection (b)(1), the word ''providing'' is substituted for ''engaged in'' for consistency in the revised title.

In subsection (b)(2), the words ''in accordance with section 1471 of this Appendix'' are omitted as surplus.

In subsection (c)(1), before clause (A), the words ''or his delegate'' are omitted because of 49:322(b). The word ''impose'' is substituted for ''assessed'' for consistency. The words ''amount of any such'' are omitted as surplus.

In subsection (d), the word ''impose'' is substituted for ''assess'' for consistency.

In subsection (d)(1), before clause (A), the words ''the following definitions apply'' are omitted as surplus.

In subsection (d)(2), the text of section 7214 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat 4434) is omitted as obsolete. The words ''or the delegate of the Administrator'' are omitted because of 49:322(b).

In subsection (d)(4)(C), the word ''or'' is substituted for ''and'' for clarity.

In subsection (d)(5)(B) and (7)(A), the words ''in accordance with section 554 of title 5'' are omitted for consistency in the revised title and because 5:554 applies to a hearing on the record unless otherwise stated.

In subsection (d)(5)(B), the words ''consistent with this subsection'' are omitted as surplus.

In subsection (d)(5)(C), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g).

In subsection (d)(7)(B), before clause (i), the words ''as the result of a hearing under subparagraph (A) of this paragraph'' are added for clarity.

In subsection (e), before clause (1), the words ''civil penalty under subsection (a)(3) of this section related to transportation of hazardous material'' are substituted for ''such penalty'' for clarity. In clause (1), the word ''committed'' is omitted as surplus.

In subsection (f)(2), the word ''imposed'' is substituted for ''when finally determined or fixed by order of the Board'' for consistency. The words ''agreed upon'' are omitted as surplus.

In subsection (g), the word ''imposing'' is substituted for ''assessing'' for consistency.

In subsection (h)(2), the words ''with respect thereto'' are omitted as surplus. The word ''Administrator'' in section 901(a)(1) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 783) is retained on authority of 49:106(g).

PUB. L. 103–429

This amends 49:46301(a)(1)(A) and (2)(A), (c)(1)(A), (d)(2), and (f)(1)(A)(i) to correct erroneous cross-references.

AMENDMENTS

1994—Subsec. (a)(1)(A). Pub. L. 103–429, § 6(60)(A), substituted ''any of sections 41301–41306'' for ''section 41301–41306'' and ''any of sections 44701(a)'' for ''section 44701(a)''.

Pub. L. 103–305, § 207(c)(1), inserted '', or 41715'' before ''of this title''.

Pub. L. 103–305, § 112(c)(1)(A), substituted ''46303, 47107(b) (including any assurance made under such section)'' for ''or 46303''.

Subsec. (a)(2)(A). Pub. L. 103–429, § 6(60)(B), substituted ''any of sections 44701(a)'' for ''section 44701(a)''.

Subsec. (a)(4). Pub. L. 103–305, § 207(c)(2), inserted ''(other than a violation of section 41715)'' after ''the violation'' in two places.

Subsec. (a)(5). Pub. L. 103–305, § 112(c)(1)(B), added par. (5).

Subsec. (a)(6). Pub. L. 103–305, § 207(c)(3), added par. (6).

Subsec. (c)(1)(A). Pub. L. 103–429, § 6(60)(C), substituted ''any of sections 41301–41306'' for ''section 41301–41306''.

Subsec. (d)(2). Pub. L. 103–429, § 6(60)(B), substituted ''any of sections 44701(a)'' for ''section 44701(a)''.

Pub. L. 103–305, § 112(c)(2), substituted ''46303, or 47107(b) (as further defined by the Secretary under section 47107(*l*) and including any assurance made under section 47107(b))'' for ''or 46303''.

Subsec. (d)(7)(D). Pub. L. 103–305, § 112(c)(3), added subpar. (D).

Subsec. (f)(1)(A)(i). Pub. L. 103–429, § 6(60)(B), substituted ''any of sections 44701(a)'' for ''section 44701(a)''.

EFFECTIVE DATE OF 1994 AMENDMENTS

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

Amendment by section 207(c) of Pub. L. 103–305 effective Feb. 1, 1995, see section 207(d) of Pub. L. 103–305, set out as an Effective Date note under section 41715 of this title.

SAVINGS PROVISION

Pub. L. 102–345, § 2(c), Aug. 26, 1992, 106 Stat. 925, provided that: ''Notwithstanding subsections (a) and (b) of this section, sections 901(a)(3) and 905 of the Federal Aviation Act of 1958 [Pub. L. 85–726] as in effect on July 31, 1992, shall continue in effect on and after such date of enactment with respect to violations of the Federal Aviation Act of 1958 occurring before such date of enactment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 1133, 1153, 40109, 41110, 46304 of this title.

§ 46302. False information

(a) CIVIL PENALTY.—A person that, knowing the information to be false, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title, is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1234.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46302(a)	49 App.:1471(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 901(c); added Oct. 12, 1984, Pub. L. 98–473, § 2014(a)(1), 98 Stat. 2189.
46302(b)	49 App.:1471(a)(2) (related to 1471(c)).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(2) (related to § 901(c)), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, § 35(b), 92 Stat. 1740; Oct. 12, 1984, Pub. L. 98–473, § 2014(b), 98 Stat. 2189.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), the words ''gives, or causes to be given'' are substituted for ''imparts or conveys or causes to be imparted or conveyed'' to eliminate unnecessary words. The words ''attempt or'', ''a crime'', and ''which shall be recoverable in a civil action brought in the name of the United States'' are omitted as surplus.

In subsection (b)(1), the words ''imposed under'' are substituted for ''provided for in'' for consistency.

In subsection (b)(2), the words ''imposed or compromised'' are substituted for ''The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46301 of this title.

§ 46303. Carrying a weapon

(a) CIVIL PENALTY.—An individual who, when on, or attempting to board, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual liable for the penalty.

(c) NONAPPLICATION.—This section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer

or employee of the Government, authorized to carry arms in an official capacity; or

(2) another individual the Administrator of the Federal Aviation Administration by regulation authorizes to carry arms in an official capacity.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1234.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46303(a)	49 App.:1471(d) (words after 3d comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 901(d); added Oct. 12, 1984, Pub. L. 98–473, § 2014(a)(1), 98 Stat. 2189.
46303(b)	49 App.:1471(a)(2) (related to 1471(d)).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(2) (related to § 901(d)), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, § 35(b), 92 Stat. 1740; Oct. 12, 1984, Pub. L. 98–473, § 2014(b), 98 Stat. 2189.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
46303(c)	49 App.:1471(d) (words before 3d comma).	

In subsection (a), the words ''deadly or'' and ''which shall be recoverable in a civil action brought in the name of the United States'' are omitted as surplus.

In subsection (b)(1), the words ''imposed under'' are substituted for ''provided for in'' for consistency.

In subsection (b)(2), the words ''imposed or compromised'' are substituted for ''The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise'' to eliminate unnecessary words.

In subsection (c)(1), the words ''State or political subdivision of a State'' are substituted for ''municipal or State government'' for consistency in the revised title and with other titles of the United States Code. The words ''or required'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 46301 of this title.

§ 46304. Liens on aircraft

(a) AIRCRAFT SUBJECT TO LIENS.—When an aircraft is involved in a violation referred to in section 46301(a)(1)(A)–(C), (2), or (3) of this title and the violation is by the owner of, or individual commanding, the aircraft, the aircraft is subject to a lien for the civil penalty.

(b) SEIZURE.—An aircraft subject to a lien under this section may be seized summarily and placed in the custody of a person authorized to take custody of it under regulations of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator). A report on the seizure shall be submitted to the Attorney General. The Attorney General promptly shall bring a civil action in rem to enforce the lien or notify the Secretary or Administrator that the action will not be brought.

(c) RELEASE.—An aircraft seized under subsection (b) of this section shall be released from custody when—

(1) the civil penalty is paid;

(2) a compromise amount agreed on is paid;

(3) the aircraft is seized under a civil action in rem to enforce the lien;

(4) the Attorney General gives notice that a civil action will not be brought under subsection (b) of this section; or

(5) a bond (in an amount and with a surety the Secretary or Administrator prescribes), conditioned on payment of the penalty or compromise, is deposited with the Secretary or Administrator.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1235.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46304(a)	49 App.:1471(b).	Aug. 23, 1958, Pub. L. 85–726, §§ 901(b), 903(b)(2), (3), 72 Stat. 784, 786.
46304(b)	49 App.:1473(b)(2).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46304(c)	49 App.:1473(b)(3).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In this section, the word ''civil'' is added before ''penalty'' for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (c), the word ''Administrator'' in section 902(b)(2) and (3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 786) is retained on authority of 49:106(g). The words ''Attorney General'' are substituted for ''United States attorney for the judicial district in which the seizure is made'' and ''United States attorney'' because of 28:503 and 509.

In subsection (b), the words ''report on the seizure'' are substituted for ''report of the cause'' for clarity. The words ''bring a civil action in rem'' are substituted for ''institute proceedings'' for clarity and consistency in the revised title and with other titles of the Code and the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''that the action will not be brought'' are substituted for ''of his failure to so act'' for clarity.

In subsection (c)(3), the words ''under a civil action in rem'' are substituted for ''in pursuance of process of any court in proceedings in rem'' to eliminate unnecessary words and for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46305. Actions to recover civil penalties

A civil penalty under this chapter may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a jury trial of an issue of fact in an action involving a civil penalty under this chapter (except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board) if the value of the matter in controversy is more than $20. Issues of fact tried by a jury may be reexamined only under common law rules.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1235.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46305	49 App.:1473(b)(1).	Aug. 23, 1958, Pub. L. 85–726, § 903(b)(1), 72 Stat. 786; Oct. 24, 1978, Pub. L. 95–504, § 36, 92 Stat. 1741.
	49 App.:1473(b)(4).	Aug. 23, 1958, Pub. L. 85–726, § 903(b)(4), 72 Stat. 787.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

The text of 49 App.:1473(b)(4) is omitted because of 28:ch. 131. The words ''imposed or assessed'' are omitted as surplus. The words ''bringing a civil action'' are substituted for ''proceedings in personam'', the words ''civil action in rem'' are substituted for ''proceedings in rem'', and the words ''civil action'' are substituted for ''civil suits'', for consistency in the revised title and with other titles of the United States Code and the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''regardless of the place an aircraft in a civil action in rem is seized'' are substituted for 49 App.:1473(b)(1) (last sentence) to eliminate unnecessary words. The word ''civil'' is added after ''involving a'' for clarity. The words ''(except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board)'' are substituted for ''other than those assessed by the Board'' because the Civil Aeronautics Board went out of existence and its duties and powers were transferred to the Secretary of Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46306. Registration violations involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL CRIMINAL PENALTY.—Except as provided by subsection (c) of this section, a person shall be fined under title 18, imprisoned for not more than 3 years, or both, if the person—

(1) knowingly and willfully forges or alters a certificate authorized to be issued under this part;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, such a certificate;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft;

(4) obtains a certificate authorized to be issued under this part by knowingly and willfully falsifying or concealing a material fact, making a false, fictitious, or fraudulent statement, or making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry;

(5) owns an aircraft eligible for registration under section 44102 of this title and knowingly and willfully operates, attempts to operate, or allows another person to operate the aircraft when—

(A) the aircraft is not registered under section 44103 of this title or the certificate of registration is suspended or revoked; or

(B) the owner knows or has reason to know that the other person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(6) knowingly and willfully operates or attempts to operate an aircraft eligible for registration under section 44102 of this title knowing that—

(A) the aircraft is not registered under section 44103 of this title;

(B) the certificate of registration is suspended or revoked; or

(C) the person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(7) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity;

(8) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity; or

(9) operates an aircraft with a fuel tank or fuel system that has been installed or modified knowing that the tank, system, installation, or modification does not comply with regulations and requirements of the Administrator of the Federal Aviation Administration.

(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—(1) In this subsection, ''controlled substance'' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(2) A person violating subsection (b) of this section shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment of more than one year under a law of the United States or a State; or

(B) provided[1] is related to an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(3) A term of imprisonment imposed under paragraph (2) of this subsection shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual.

(d) SEIZURE AND FORFEITURE.—(1) The Administrator of Drug Enforcement or the Commissioner of Customs may seize and forfeit under the customs laws an aircraft whose use is related to a violation of subsection (b) of this section, or to aid or facilitate a violation, regardless of whether a person is charged with the violation.

(2) An aircraft's use is presumed to have been related to a violation of, or to aid or facilitate a violation of—

[1] So in original. Probably should be preceded by ''that is''.

(A) subsection (b)(1) of this section if the aircraft certificate of registration has been forged or altered;

(B) subsection (b)(3) of this section if there is an external display of false or misleading registration numbers or country of registration;

(C) subsection (b)(4) of this section if—

(i) the aircraft is registered to a false or fictitious person; or

(ii) the application form used to obtain the aircraft certificate of registration contains a material false statement;

(D) subsection (b)(5) of this section if the aircraft was operated when it was not registered under section 44103 of this title; or

(E) subsection (b)(9) of this section if the aircraft has a fuel tank or fuel system that was installed or altered—

(i) in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration; or

(ii) if a certificate required to be issued for the installation or alteration is not carried on the aircraft.

(3) The Administrator of the Federal Aviation Administration, the Administrator of Drug Enforcement, and the Commissioner shall agree to a memorandum of understanding to establish procedures to carry out this subsection.

(e) RELATIONSHIP TO STATE LAWS.—This part does not prevent a State from establishing a criminal penalty, including providing for forfeiture and seizure of aircraft, for a person that—

(1) knowingly and willfully forges or alters an aircraft certificate of registration;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, a fraudulent aircraft certificate of registration;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft; or

(4) obtains an aircraft certificate of registration from the Administrator of the Federal Aviation Administration by—

(A) knowingly and willfully falsifying or concealing a material fact;

(B) making a false, fictitious, or fraudulent statement; or

(C) making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1235.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46306(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, §7214, 102 Stat. 4434.
46306(b)	49 App.:1472(b)(1), (2) (1st sentence cl. (A)).	Aug. 23, 1958, Pub. L. 85–726, §902(b)(1)–(4), 72 Stat. 784; Oct. 19, 1984, Pub. L. 98–499, §6, 98 Stat. 2316; restated Nov. 18, 1988, Pub. L. 100–690, §7209(a), 102 Stat. 4429.
46306(c)(1) ..	49 App.:1472(b)(4).	
46306(c)(2) ..	49 App.:1472(b)(2) (1st sentence cl. (B)).	
46306(c)(3) ..	49 App.:1472(b)(2) (last sentence).	
46306(d)	49 App.:1472(b)(3).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46306(e)	49 App.:1472(b)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(b)(5); added Oct. 27, 1986, Pub. L. 99–570, §3401(a)(1), 100 Stat. 3207–99; Nov. 18, 1988, Pub. L. 100–690, §7209(a), (b)(1), 102 Stat. 4429, 4432.

In subsections (b)(9), (d), and (e), the word ''Administrator'' in section 902(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g).

In subsection (b), before clause (1), the words ''Except as provided by subsection (c) of this section'' are added for clarity. The words ''It shall be unlawful for any person'' and ''upon conviction'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not more than $15,000'' for consistency with title 18. In clause (1), the words ''counterfeit'' and ''falsely make'' are omitted as surplus. In clause (4), the words ''covering up'', ''representation'', and ''writing'' are omitted as surplus. In clause (7), the word ''valid'' is omitted as surplus.

In subsection (c)(2), before clause (A), the words ''fined under title 18'' are substituted for ''a fine of not more than $25,000'' for consistency with title 18.

In subsection (d)(1) and (3), the words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' and ''Drug Enforcement Administration'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words ''Commissioner of Customs'' and ''Commissioner'' are substituted for ''United States Customs Service'' because of 19:2071.

In subsection (d)(2)(A), the words ''aircraft certificate of registration'' are substituted for ''registration'' for consistency in this section. The words ''counterfeited'' and ''falsely made'' are omitted as surplus.

In subsections (d)(2)(C)(ii) and (e), the words ''aircraft certificate of registration'' are substituted for ''aircraft registration certificate'' for consistency with 49 App.:1401, restated in chapter 441 of the revised title.

In subsection (e), before clause (1), the words ''this subsection or in any other provision of'' are omitted as surplus. In clause (1), the words ''counterfeits'' and ''falsely makes'' are omitted as surplus. In clause (4)(A), the words ''covering up'' are omitted as surplus. In clause (4)(B), the words ''or representation'' are omitted as surplus. In clause (4)(C), the words ''writing or'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44936 of this title.

§ 46307. Violation of national defense airspace

A person that knowingly or willfully violates section 40103(b)(3) of this title or a regulation prescribed or order issued under section 40103(b)(3) shall be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1237.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46307	49 App.:1523.	Aug. 23, 1958, Pub. L. 85–726, §1203, 72 Stat. 800.

The words ''In addition to the penalties otherwise provided for by this chapter'' are omitted as surplus. The word ''prescribed'' is added for consistency in the revised title. The words ''fined under title 18'' are sub-

stituted for ''a fine of not exceeding $10,000'', and the words ''shall be deemed guilty of a misdemeanor'' are omitted, for consistency with title 18. The words ''and upon conviction thereof'' and ''such fine and imprisonment'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46308. Interference with air navigation

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) with intent to interfere with air navigation in the United States, exhibits in the United States a light or signal at a place or in a way likely to be mistaken for a true light or signal established under this part or for a true light or signal used at an air navigation facility;

(2) after a warning from the Administrator of the Federal Aviation Administration, continues to maintain a misleading light or signal; or

(3) knowingly interferes with the operation of a true light or signal.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1238.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46308	49 App.:1472(c).	Aug. 23, 1958, Pub. L. 85–726, § 902(c), 72 Stat. 784.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, before clause (1), the words ''fined under title 18'' are substituted for ''a fine of not exceeding $5,000'' for consistency with title 18. The words ''such fine and imprisonment'' are omitted as surplus. In clause (1), the words ''used at'' are substituted for ''in connection with'' for clarity. The words ''airport or other'' are omitted as being included in the definition of ''air navigation facility'' in section 40102(a) of the revised title. In clause (2), the word ''due'' is omitted as surplus. The word ''Administrator'' in section 902(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g). In clause (3), the words ''removes, extinguishes, or'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44936 of this title.

§ 46309. Concession and price violations

(a) CRIMINAL PENALTY FOR OFFERING, GRANTING, GIVING, OR HELPING TO OBTAIN CONCESSIONS AND LOWER PRICES.—An air carrier, foreign air carrier, ticket agent, or officer, agent, or employee of an air carrier, foreign air carrier, or ticket agent shall be fined under title 18 if the air carrier, foreign air carrier, ticket agent, officer, agent, or employee—

(1) knowingly and willfully offers, grants, or gives, or causes to be offered, granted, or given, a rebate or other concession in violation of this part; or

(2) by any means knowingly and willfully assists, or willingly allows, a person to obtain transportation or services subject to this part at less than the price lawfully in effect.

(b) CRIMINAL PENALTY FOR RECEIVING REBATES, PRIVILEGES, AND FACILITIES.—A person shall be fined under title 18 if the person by any means—

(1) knowingly and willfully solicits, accepts, or receives a rebate of a part of a price lawfully in effect for the foreign air transportation of property, or a service related to the foreign air transportation; or

(2) knowingly solicits, accepts, or receives a privilege or facility related to a matter the Secretary of Transportation requires be specified in a currently effective tariff applicable to the foreign air transportation of property.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1238.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46309(a)	49 App.:1472(d)(1).	Aug. 23, 1958, Pub. L. 85–726, § 902(d)(1), 72 Stat. 785; Jan. 3, 1975, Pub L. 93–623, § 8(b), 88 Stat. 2105.
46309(b)	49 App.:1472(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(d)(2); added Jan. 3, 1975, Pub. L. 93–623, § 8(b), 88 Stat. 2106.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, the words ''fined under title 18'' are substituted for ''a fine of not less than $100 and not more than $5,000'' and ''fined not less than $100, nor more than $5,000'' for consistency with title 18. The words ''for each offense'' are omitted as surplus. The words ''fares, or charges'' are omitted as surplus because of the definition of ''rate'' in section 40102(a) of the revised title.

In subsection (a), before clause (1), the word ''representative'' is omitted as surplus. The words ''shall be deemed guilty of a misdemeanor'' are omitted as superseded by 18:3559. The words ''and, upon conviction thereof'' are omitted as surplus. In clause (2), the words ''device or'' and ''suffer or'' are omitted as surplus.

In subsection (b), before clause (1), the words ''by any means'' are substituted for ''in any manner or by any device'' for consistency in this section and to eliminate unnecessary words. In clauses (1) and (2), the word ''foreign'' is added for clarity because only foreign air transportation has regulated prices. In clause (1), the word ''rebate'' is substituted for ''refund or remittance'' for consistency in this section. In clause (2), the word ''favor'' is omitted as being included in ''privilege''.

§ 46310. Reporting and recordkeeping violations

(a) GENERAL CRIMINAL PENALTY.—An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18 for intentionally—

(1) failing to make a report or keep a record under this part;

(2) falsifying, mutilating, or altering a report or record under this part; or

(3) filing a false report or record under this part.

(b) SAFETY REGULATION CRIMINAL PENALTY.—An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18, imprisoned for not more than 5 years, or both, for intentionally falsifying or concealing a material fact, or inducing reliance on a false statement of material fact, in a report or record under section 44701(a) or (b) or any of sections 44702–44716 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1238; Pub. L. 103–429, § 6(56), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46310	49 App.:1472(e).	Aug. 23, 1958, Pub. L. 85–726, § 902(e), 72 Stat. 785; restated Sept. 30, 1987, Pub. L. 100–121, 101 Stat. 792.

In this section, the word ''representative'' is omitted as surplus. The words ''account'' and ''memorandum'' are omitted as being included in ''record''.

In subsection (a), before clause (1), the words ''fined under title 18'' are substituted for ''fined not more than $5,000 in the case of an individual and not more than $10,000 in the case of a person other than an individual'' for consistency in this section and with title 18.

In subsection (b), the words ''or representation'' are omitted a surplus.

PUB. L. 103–429

This amends 49:44711(a)(2)(B), (5), and (7) and 46310(b) to correct erroneous cross-references.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–429 inserted ''any of sections'' before ''44702–44716''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46311. Unlawful disclosure of information

(a) CRIMINAL PENALTY.—The Secretary of Transportation, the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator, or an officer or employee of the Secretary or Administrator shall be fined under title 18, imprisoned for not more than 2 years, or both, if the Secretary, Administrator, officer, or employee knowingly and willfully discloses information that—

(1) the Secretary, Administrator, officer, or employee acquires when inspecting the records of an air carrier; or

(2) is withheld from public disclosure under section 40115 of this title.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply if—

(1) the officer or employee is directed by the Secretary or Administrator to disclose information that the Secretary or Administrator had ordered withheld; or

(2) the Secretary, Administrator, officer, or employee is directed by a court of competent jurisdiction to disclose the information.

(c) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize the Secretary or Administrator to withhold information from a committee of Congress authorized to have the information.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46311(a), (b)	49 App.:1472(f) (words before proviso).	Aug. 23, 1958, Pub. L. 85–726, § 902(f), 72 Stat. 785.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46311(c)	49 App.:1472(f) (proviso).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 902(f) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 785) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''fined under title 18'' are substituted for ''a fine of not more than $5,000'' for consistency with title 18. The words ''upon conviction thereof be subject for each offense'' are omitted as surplus. The words ''any fact or'' are omitted as being included in ''information''. In clause (1), the words ''the Secretary, Administrator, officer, or employee acquires'' are substituted for ''may come to his knowledge'' for clarity and consistency.

In subsection (b)(2), the words ''or a judge thereof'' are omitted as surplus.

In subsection (c), the word ''duly'' is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46312. Transporting hazardous material

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, in violation of a regulation or requirement related to the transportation of hazardous material prescribed by the Secretary of Transportation under this part—

(1) willfully delivers, or causes to be delivered, property containing hazardous material to an air carrier or to an operator of a civil aircraft for transportation in air commerce; or

(2) recklessly causes the transportation in air commerce of the property.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46312	49 App.:1472(h)(2).	Aug. 23, 1958, Pub. L. 85–726, § 902(h)(2), 72 Stat. 785; restated Jan. 3, 1975, Pub. L. 93–633, § 113(c), 88 Stat. 2162.

In this section, before clause (1), the words ''is guilty of an offense'', ''Upon conviction'', and ''for each offense'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not more than $25,000'' for consistency with title 18. The word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code. In clause (1), the words ''shipment, baggage, or other'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44936 of this title; title 18 section 3663.

§ 46313. Refusing to appear or produce records

A person not obeying a subpena or requirement of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) to appear and testify or produce records shall be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46313	49 App.:1472(g).	Aug. 23, 1958, Pub. L. 85–726, § 902(g), 72 Stat. 785.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The word ''Administrator'' in section 902(g) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 785) is retained on authority of 49:106(g). The words ''not obeying'' are substituted for ''who shall neglect or refuse . . . or to answer any lawful inquiry . . . in obedience to'' to eliminate surplus words. The word ''lawful'' is omitted as surplus. The word ''appear'' is substituted for ''attend'' for clarity. The word ''records'' is substituted for ''books, papers, or documents'' for consistency in the revised title and with other titles of the United States Code. The words ''if in his power to do so'' are omitted as surplus. The words ''shall be guilty of a misdemeanor'' are omitted for consistency with title 18. The words ''and, upon conviction thereof'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not less than $100 nor more than $5,000'' for consistency with title 18.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46314. Entering aircraft or airport area in violation of security requirements

(a) PROHIBITION.—A person may not knowingly and willfully enter, in violation of security requirements prescribed under section 44901, 44903(b) or (c), or 44906 of this title, an aircraft or an airport area that serves an air carrier or foreign air carrier.

(b) CRIMINAL PENALTY.—(1) A person violating subsection (a) of this section shall be fined under title 18, imprisoned for not more than one year, or both.

(2) A person violating subsection (a) of this section with intent to commit, in the aircraft or airport area, a felony under a law of the United States or a State shall be fined under title 18, imprisoned for not more than 10 years, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46314	49 App.:1472(r).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(r); added Dec. 30, 1987, Pub. L. 100–223, § 204(f)(2), 101 Stat. 1520.

In subsection (b), the words ''fined under title 18'' are substituted for ''a fine not to exceed $1,000'' and ''a fine not to exceed $10,000'' for consistency with title 18.

In subsection (b)(1), the words ''Upon conviction'' are omitted as surplus.

In subsection (b)(2), the words ''airport area'' are substituted for ''secured area'' for consistency in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44936 of this title; title 18 section 2333; title 28 section 538.

§ 46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) CRIMINAL PENALTY.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if—

(1) the person knowingly and willfully operates an aircraft in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration related to the display of navigation or anticollision lights;

(2) the person is knowingly transporting a controlled substance by aircraft or aiding or facilitating a controlled substance offense; and

(3) the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment for more than one year under a law of the United States or a State; or

(B) is provided in connection with an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46315(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
46315(b)	49 App.:1472(q).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(q); added Oct. 19, 1984, Pub. L. 98–499, § 5(a), 98 Stat. 2315; restated Oct. 27, 1986, Pub. L. 99–570, § 3401(b)(1), 100 Stat. 3207–100; Nov. 18, 1988, Pub. L. 100–690, § 7209(c)(1), (2)(A), 102 Stat. 4432.

In subsection (b), before clause (1), the words ''fined under title 18'' are substituted for ''a fine not exceeding $25,000'' for consistency with title 18. In clause (2), the word ''knowingly'' is substituted for ''and with knowledge of such act'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44936 of this title.

§ 46316. General criminal penalty when specific penalty not provided

(a) CRIMINAL PENALTY.—Except as provided by subsection (b) of this section, when another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates this part, a regulation prescribed or

order issued by the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part, or any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title shall be fined under title 18. A separate violation occurs for each day the violation continues.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply to chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), chapter 445, and sections 44701(a) and (b), 44702–44716, 44901, 44903(b) and (c), 44905, 44906, 44912–44915, and 44932–44938 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46316	49 App.:1472(a).	Aug. 23, 1958, Pub. L. 85–726, § 902(a), 72 Stat. 784; restated July 10, 1962, Pub. L. 87–528, § 13, 76 Stat. 150.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In subsection (a), the word ''prescribed'' is added for consistency in the revised title. The words ''condition, or limitation of'' are omitted as surplus. The word ''Administrator'' in section 902(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g). The words ''or in section 1474 of this Appendix'' are omitted as surplus because 49 App.:1474 is not included in the revised title. The words ''shall be deemed guilty of a misdemeanor'' are omitted for consistency with title 18. The words ''and upon conviction thereof'' are omitted as surplus. The words ''shall be fined under title 18'' are substituted for ''shall be subject for the first offense to a fine of not more than $500, and for any subsequent offense to a fine of not more than $2,000'' for consistency with title 18.

In subsection (b), reference to 49 App.:ch. 20, subch. VII is omitted as unnecessary because subchapter VII is not restated in this part.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

CHAPTER 465—SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

Sec.
46501. Definitions.
46502. Aircraft piracy.
46503. Repealed.
46504. Interference with flight crew members and attendants.
46505. Carrying a weapon or explosive on an aircraft.
46506. Application of certain criminal laws to acts on aircraft.
46507. False information and threats.

AMENDMENTS

1994—Pub. L. 103–322, title VI, § 60003(b)(1), Sept. 13, 1994, 108 Stat. 1970, substituted ''Repealed'' for ''Death penalty sentencing procedure for aircraft piracy'' in item 46503.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 106, 44936 of this title; title 28 section 538.

§ 46501. Definitions

In this chapter—

(1) ''aircraft in flight'' means an aircraft from the moment all external doors are closed following boarding—

(A) through the moment when one external door is opened to allow passengers to leave the aircraft; or

(B) until, if a forced landing, competent authorities take over responsibility for the aircraft and individuals and property on the aircraft.

(2) ''special aircraft jurisdiction of the United States'' includes any of the following aircraft in flight:

(A) a civil aircraft of the United States.

(B) an aircraft of the armed forces of the United States.

(C) another aircraft in the United States.

(D) another aircraft outside the United States—

(i) that has its next scheduled destination or last place of departure in the United States, if the aircraft next lands in the United States;

(ii) on which an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) if the aircraft lands in the United States with the individual still on the aircraft; or

(iii) against which an individual commits an offense (as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation) if the aircraft lands in the United States with the individual still on the aircraft.

(E) any other aircraft leased without crew to a lessee whose principal place of business is in the United States or, if the lessee does not have a principal place of business, whose permanent residence is in the United States.

(3) an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) when the individual, when on an aircraft in flight—

(A) by any form of intimidation, unlawfully seizes, exercises control of, or attempts to seize or exercise control of, the aircraft; or

(B) is an accomplice of an individual referred to in subclause (A) of this clause.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46501(1)	49 App.:1301(38) (words after 10th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §101(38); added Oct. 14, 1970, Pub. L. 91–449, §1(1), 84 Stat. 921; restated Aug. 5, 1974, Pub. L. 93–366, §§102, 206, 88 Stat. 409, 419; Nov. 9, 1977, Pub. L. 95–163, §17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, §2(b), 92 Stat. 1705; Oct. 12, 1984, Pub. L. 98–473, §2013(c), 98 Stat. 2189.
	49 App.:1472(n)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(n)(2), (4); added Aug. 5, 1974, Pub. L. 93–366, §103(b), 88 Stat. 410, 411.
46501(2)	49 App.:1301(38) (words before 10th comma).	
46501(3)	49 App.:1472(n)(2).	

In clause (2), before subclause (A), the words ''any of the following'' are substituted for ''includes'' for clarity. In subclause (B), the words ''armed forces'' are substituted for ''national defense forces'' because of 10:101. In subclause (D)(i), the word ''place'' is substituted for ''point'' for consistency in the revised title. The word ''actually'' is omitted as surplus. In subclause (D)(ii), the words ''on which an individual commits'' are substituted for ''having . . . committed aboard'' for clarity. In subclause (D)(iii), the words ''against which an individual commits'' are substituted for ''regarding which an offense . . . is committed'' for clarity. The words ''(Montreal, September 23, 1971)'' are omitted as surplus. In subclause (E), the words ''the lessee does not have a principal place of business'' are substituted for ''none'' for clarity.

In clause (3), the words ''by force or threat thereof, or . . . other'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 sections 31, 112, 831, 878, 1116, 1201, 2318, 2340.

§ 46502. Aircraft piracy

(a) IN SPECIAL AIRCRAFT JURISDICTION.—(1) In this subsection—

(A) ''aircraft piracy'' means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent.

(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

(2) An individual committing or attempting to commit aircraft piracy—

(A) shall be imprisoned for at least 20 years; or

(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION.—(1) An individual committing an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States and later found in the United States—

(A) shall be imprisoned for at least 20 years; or

(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(2) This subsection applies only if the place of takeoff or landing of the aircraft on which the individual commits the offense is located outside the territory of the country of registration of the aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1241; Pub. L. 103–429, §6(61), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46502(a)(1) ..	49 App.:1472(i)(2), (3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(i); added Sept. 5, 1961, Pub. L. 87–197, §1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, §1(3), 84 Stat. 921; Aug. 5, 1974, Pub. L. 93–366, §§103(a), 104, 88 Stat. 410, 411.
46502(a)(2) ..	49 App.:1472(i)(1).	
46502(b)(1) ..	49 App.:1472(n)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(n)(1), (3); added Aug. 5, 1974, Pub. L. 93–366, §103(b), 88 Stat. 410.
46502(b)(2) ..	49 App.:1472(n)(3).	

In subsection (a)(1)(B), the words ''offense of'' are omitted as surplus.

In subsection (a)(2), the words ''as herein defined'' are omitted as surplus.

In subsection (b)(2), the words ''the place of actual'' are omitted as surplus. The words ''as defined in paragraph (2) of this subsection'' are omitted because of the restatement. The word ''country'' is substituted for ''State'' for consistency in the revised title and with other titles of the United States Code.

PUB. L. 103–429

This amends 49:46502(a)(2)(B) and (b)(1)(B) to clarify the restatement of 49 App.:1472(i)(1)(B) and (n)(1)(B) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1241, 1242).

AMENDMENTS

1994—Subsecs. (a)(2)(B), (b)(1)(B). Pub. L. 103–429 inserted ''notwithstanding section 3559(b) of title 18,'' before ''if the death''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

AIRCRAFT PIRACY

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44903, 46302, 46507 of this title; title 18 sections 2333, 2339A, 2516, 3286, 3559, 3592, 3663.

[§ 46503. Repealed. Pub. L. 103–322, title VI, § 60003(b)(2), Sept. 13, 1994, 108 Stat. 1970]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1242, provided for death penalty sentencing procedure for individuals convicted of aircraft piracy. See 18 U.S.C. 3591 et seq.

§ 46504. Interference with flight crew members and attendants

An individual on an aircraft in the special aircraft jurisdiction of the United States who, by assaulting or intimidating a flight crew member or flight attendant of the aircraft, interferes with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, shall be fined under title 18, imprisoned for not more than 20 years, or both. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1244.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46504	49 App.:1472(j).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(j); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, § 1(3), 84 Stat. 921.

The words ''or threatens'' are omitted as being included in ''intimidating''. The words ''(including any steward or stewardess)'' are omitted as being included in ''attendant''. The words ''fined under title 18'' are substituted for ''fined not more than $10,000'' for consistency with title 18. The words ''deadly or'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46302, 46507 of this title; title 18 sections 3286, 3663.

§ 46505. Carrying a weapon or explosive on an aircraft

(a) DEFINITION.—In this section, ''loaded firearm'' means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than one year, or both, if the individual—

(1) when on, or attempting to get on, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight;

(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

(c) CRIMINAL PENALTY INVOLVING DISREGARD FOR HUMAN LIFE.—An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be fined under title 18, imprisoned for not more than 5 years, or both.

(d) NONAPPLICATION.—Subsection (b)(1) of this section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

(2) another individual the Administrator of the Federal Aviation Administration by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1244.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46505(a)	49 App.:1472(*l*)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(4); added Feb. 18, 1980, Pub. L. 96–193, § 502(c), 94 Stat. 59.
46505(b)	49 App.:1472(*l*)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(1); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; Aug. 5, 1974, Pub. L. 93–366, § 203, 88 Stat. 417; restated Feb. 18, 1980, Pub. L. 96–193, § 502(a), 94 Stat. 59; Oct. 12, 1984, Pub. L. 98–473, § 2014(c)(1), 98 Stat. 2189.
46505(c)	49 App.:1472(*l*)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(2); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; restated Aug. 5, 1974, Pub. L. 93–366, § 203, 88 Stat. 418; Oct. 12, 1984, Pub. L 98–473, § 2014(c)(2), 98 Stat. 2189.
46505(d)	49 App.:1472(*l*)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(3); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; restated Aug. 5, 1974, Pub. L. 93–366, § 203, 88 Stat. 418; Feb. 18, 1980, Pub. L. 96–193, § 502(b), 94 Stat. 59.

In subsection (a), the definition of ''firearm'' is merged with the definition of ''loaded firearm'' because the term ''firearm'' is only used in the defined term ''loaded firearm''.

In subsections (b) and (c), the words ''fined under title 18'' are substituted for ''fined not more than $10,000'' and ''fined not more than $25,000'' for consistency with title 18.

In subsections (b)(1) and (d)(2), the words ''deadly or'' are omitted as surplus.

In subsection (b)(2), the words ''baggage or other'' are omitted as surplus.

In subsection (b)(3), the words ''bomb or similar'' are omitted as surplus.

In subsection (d)(1), the words ''State or political subdivision of a State'' are substituted for ''municipal or State government'' for consistency in the revised title and with other titles of the United States Code. The words ''or required'' are omitted as surplus.

In subsection (d)(3), the word ''contained'' is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46302, 46507 of this title; title 18 sections 2333, 3286.

§ 46506. Application of certain criminal laws to acts on aircraft

An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that—

(1) if committed in the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18) would violate section 113, 114, 661, 662, 1111, 1112, 1113, or 2111 or chapter 109A of title 18, shall be fined under title 18, imprisoned under that section or chapter, or both; or

(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code § 22-1112), shall be fined under title 18, imprisoned under section 9 of the Act, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46506	49 App.:1472(k).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(k); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, § 1(3), 84 Stat. 921; Nov. 10, 1986, Pub. L. 99–646, § 87(d)(8), 100 Stat. 3624; Nov. 14, 1986, Pub. L. 99–654, § 3(b)(8), 100 Stat. 3664.

In clause (1), the words ''fined under title 18, imprisoned under that section or chapter, or both'' are substituted for ''punished as provided therein'' for consistency with title 18.

In clause (2), the words ''fined under title 18, imprisoned under section 9 of the Act, or both'' are substituted for ''punished as provided therein'' for consistency with title 18.

REFERENCES IN TEXT

Section 9 of the Act of July 29, 1892, referred to in par. (2), is section 9 of act July 29, 1892, ch. 320, 27 Stat. 324, as amended, which appears in section 22–1112 of Title 22, Criminal Offenses, of the District of Columbia Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46302, 46507 of this title; title 18 sections 2333, 3286.

§ 46507. False information and threats

An individual shall be fined under title 18, imprisoned for not more than 5 years, or both, if the individual—

(1) knowing the information to be false, willfully and maliciously or with reckless disregard for the safety of human life, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title; or

(2)(A) threatens to violate section 46502(a), 46504, 46505, or 46506 of this title, or causes a threat to violate any of those sections to be made; and

(B) has the apparent determination and will to carry out the threat.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46507	49 App.:1472(m).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(m); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 467; restated Oct. 12, 1984, Pub. L. 98–473, § 2014(d)(1), 98 Stat. 2190.

In this section, before clause (1), the words ''fined under title 18'' are substituted for ''fined not more than $25,000'' for consistency with title 18. In clauses (1) and (2), the words ''a felony'' are omitted as surplus. In clause (1), the words ''gives, or causes to be given'' are substituted for ''imparts or conveys or causes to be imparted or conveyed'' to eliminate unnecessary words. The words ''attempt or'' are omitted as surplus. In clause (2), the words ''threatens . . . or causes a threat . . . to be made'' are substituted for ''imparts or conveys or causes to be imparted or conveyed any threat'' to eliminate unnecessary words.

PART B—AIRPORT DEVELOPMENT AND NOISE

CHAPTER 471—AIRPORT DEVELOPMENT

SUBCHAPTER I—AIRPORT IMPROVEMENT

Sec.
47101. Policies.
47102. Definitions.
47103. National plan of integrated airport systems.
47104. Project grant authority.
47105. Project grant applications.
47106. Project grant application approval conditioned on satisfaction of project requirements.
47107. Project grant application approval conditioned on assurances about airport operations.
47108. Project grant agreements.
47109. United States Government's share of project costs.
47110. Allowable project costs.
47111. Payments under project grant agreements.
47112. Carrying out airport development projects.
47113. Minority and disadvantaged business participation.
47114. Apportionments.
47115. Discretionary fund.
47116. Small airport fund.
47117. Use of apportioned amounts.
47118. Designating current and former military airports.
47119. Terminal development costs.
47120. Grant priority.
47121. Records and audits.
47122. Administrative.
47123. Nondiscrimination.
47124. Agreements for State and local operation of airport facilities.
47125. Conveyances of United States Government land.
47126. Criminal penalties for false statements.
47127. Ground transportation demonstration projects.
47128. State block grant pilot program.
47129. Resolution of airport-air carrier disputes concerning airport fees.
47130. Airport safety data collection.
47131. Annual report.

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

47151. Authority to transfer an interest in surplus property.
47152. Terms of gifts.
47153. Waiving and adding terms.

Sec.

AMENDMENTS

1994—Pub. L. 103–305, title I, §§113(b), 118(b), Aug. 23, 1994, 108 Stat. 1579, 1580, added items 47129 and 47130 and redesignated former item 47129 as 47131.

SUBCHAPTER I—AIRPORT IMPROVEMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 40117, 47504, 47526, 49101, 49102, 49104, 49105 of this title.

§ 47101. Policies

(a) GENERAL.—It is the policy of the United States—

(1) that the safe operation of the airport and airway system is the highest aviation priority;

(2) that aviation facilities be constructed and operated to minimize current and projected noise impact on nearby communities;

(3) to give special emphasis to developing reliever airports;

(4) that appropriate provisions should be made to make the development and enhancement of cargo hub airports easier;

(5) to encourage the development of transportation systems that use various modes of transportation in a way that will serve the States and local communities efficiently and effectively;

(6) that airport development projects under this subchapter provide for the protection and enhancement of natural resources and the quality of the environment of the United States;

(7) that airport construction and improvement projects that increase the capacity of facilities to accommodate passenger and cargo traffic be undertaken to the maximum feasible extent so that safety and efficiency increase and delays decrease;

(8) to ensure that nonaviation usage of the navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system;

(9) that artificial restrictions on airport capacity—

(A) are not in the public interest;

(B) should be imposed to alleviate air traffic delays only after other reasonably available and less burdensome alternatives have been tried; and

(C) should not discriminate unjustly between categories and classes of aircraft;

(10) that special emphasis should be placed on converting appropriate former military air bases to civil use and identifying and improving additional joint-use facilities;

(11) that the airport improvement program should be administered to encourage projects that employ innovative technology, concepts, and approaches that will promote safety, capacity, and efficiency improvements in the construction of airports and in the air transportation system (including the development and use of innovative concrete and other materials in the construction of airport facilities to minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability) and to encourage and solicit innovative technology proposals and activities in the expenditure of funding pursuant to this subchapter;

(12) that airport fees, rates, and charges must be reasonable and may only be used for purposes not prohibited by this subchapter; and

(13) that airports should be as self-sustaining as possible under the circumstances existing at each particular airport and in establishing new fees, rates, and charges, and generating revenues from all sources, airport owners and operators should not seek to create revenue surpluses that exceed the amounts to be used for airport system purposes and for other purposes for which airport revenues may be spent under section 47107(b)(1) of this title, including reasonable reserves and other funds to facilitate financing and cover contingencies.

(b) NATIONAL TRANSPORTATION POLICY.—(1) It is a goal of the United States to develop a national intermodal transportation system that transports passengers and property in an efficient manner. The future economic direction of the United States depends on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, and the need to rebuild the infrastructure of the United States.

(2) United States leadership in the world economy, the expanding wealth of the United States, the competitiveness of the industry of the United States, the standard of living, and the quality of life are at stake.

(3) A national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation that transports passengers and property in the most efficient manner. By reducing transportation costs, these intermodal systems will enhance the ability of the industry of the United States to compete in the global marketplace.

(4) All forms of transportation, including aviation and other transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development.

(5) An intermodal transportation system consists of transportation hubs that connect different forms of appropriate transportation and provides users with the most efficient means of transportation and with access to commercial centers, business locations, population centers, and the vast rural areas of the United States, as well as providing links to other forms of transportation and to intercity connections.

(6) Intermodality and flexibility are paramount issues in the process of developing an integrated system that will obtain the optimum yield of United States resources.

(7) The United States transportation infrastructure must be reshaped to provide the economic underpinnings for the United States to compete in the 21st century global economy. The United States can no longer rely on the sheer size of its economy to dominate international economic rivals and must recognize fully that its economy is no longer a separate entity but is part of the global marketplace. The future economic prosperity of the United States depends on its ability to compete in an inter-

national marketplace that is teeming with competitors but in which a full one-quarter of the economic activity of the United States takes place.

(8) The United States must make a national commitment to rebuild its infrastructure through development of a national intermodal transportation system. The United States must provide the foundation for its industries to improve productivity and their ability to compete in the global economy with a system that will transport passengers and property in an efficient manner.

(c) CAPACITY EXPANSION AND NOISE ABATEMENT.—It is in the public interest to recognize the effects of airport capacity expansion projects on aircraft noise. Efforts to increase capacity through any means can have an impact on surrounding communities. Noncompatible land uses around airports must be reduced and efforts to mitigate noise must be given a high priority.

(d) CONSISTENCY WITH AIR COMMERCE AND SAFETY POLICIES.—Each airport and airway program should be carried out consistently with section 40101(a), (b), (d), and (f) of this title to foster competition, prevent unfair methods of competition in air transportation, maintain essential air transportation, and prevent unjust and discriminatory practices, including as the practices may be applied between categories and classes of aircraft.

(e) ADEQUACY OF NAVIGATION AIDS AND AIRPORT FACILITIES.—This subchapter should be carried out to provide adequate navigation aids and airport facilities for places at which scheduled commercial air service is provided. The facilities provided may include—

(1) reliever airports; and

(2) heliports designated by the Secretary of Transportation to relieve congestion at commercial service airports by diverting aircraft passengers from fixed-wing aircraft to helicopter carriers.

(f) MAXIMUM USE OF SAFETY FACILITIES.—This subchapter should be carried out consistently with a comprehensive airspace system plan, giving highest priority to commercial service airports, to maximize the use of safety facilities, including installing, operating, and maintaining, to the extent possible with available money and considering other safety needs—

(1) electronic or visual vertical guidance on each runway;

(2) grooving or friction treatment of each primary and secondary runway;

(3) distance-to-go signs for each primary and secondary runway;

(4) a precision approach system, a vertical visual guidance system, and a full approach light system for each primary runway;

(5) a nonprecision instrument approach for each secondary runway;

(6) runway end identifier lights on each runway that does not have an approach light system;

(7) a surface movement radar system at each category III airport;

(8) a taxiway lighting and sign system;

(9) runway edge lighting and marking; and

(10) radar approach coverage for each airport terminal area.

(g) COOPERATION.—To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.

(h) CONSULTATION.—To carry out the policy of subsection (a)(6) of this section, the Secretary of Transportation shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency about any project included in a project grant application involving the location of an airport or runway, or a major runway extension, that may have a significant effect on—

(1) natural resources, including fish and wildlife;

(2) natural, scenic, and recreation assets;

(3) water and air quality; or

(4) another factor affecting the environment.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1246; Pub. L. 103–305, title I, §§ 104, 110, Aug. 23, 1994, 108 Stat. 1571, 1573; Pub. L. 103–429, § 6(62), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47101(a)(1) ..	49 App.:2201(a)(1), (2).	Sept. 3, 1982, Pub. L. 97–248, §§ 502(a)(1)–(3), (6), (b), 509(b)(5) (1st sentence, last sentence words before 11th comma), 96 Stat. 671, 672, 684.
	49 App.:2201(a)(9).	Sept. 3, 1982, Pub. L. 97–248, § 502(a)(9), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 102(b)(1), (c)(1), 101 Stat. 1487.
	49 App.:2201(a)(10).	Sept. 3, 1982, Pub. L. 97–248, § 502(a)(10), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 102(b)(1), (c)(2), 101 Stat. 1487.
47101(a)(2) ..	49 App.:2201(a)(8).	Sept. 3, 1982, Pub. L. 97–248, § 502(a)(8), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 102(b)(1), 101 Stat. 1487.
47101(a)(3) ..	49 App.:2201(a)(6).	
47101(a)(4) ..	49 App.:2201(a)(7).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 502(a)(7); added Dec. 30, 1987, Pub. L. 100–223, § 102(b)(2), 101 Stat. 1487.
47101(a)(5) ..	49 App.:2201(b) (1st sentence).	
47101(a)(6) ..	49 App.:2208(b)(5) (1st sentence).	
47101(a)(7) ..	49 App.:2201(a)(11).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 502(a)(11); added Dec. 30, 1987, Pub. L. 100–223, § 102(c)(3), 101 Stat. 1488.
47101(a)(8) ..	49 App.:2201(a)(12).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 502(a)(12); added Dec. 30, 1987, Pub. L. 100–223, § 102(c)(3), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, § 9109(a)(1), 104 Stat. 1388–356.

HISTORICAL AND REVISION NOTES—CONTINUED

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47101(a)(9) ..	49 App.:2201(a)(13).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 502(a)(13); added Dec. 30, 1987, Pub. L. 100–223, § 102(c)(3), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, §§ 9103(2), 9109(a)(2), 104 Stat. 1388–354, 1388–356.
47101(a)(10)	49 App.:2201(a)(14).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 502(a)(14); added Nov. 5, 1990, Pub. L. 101–508, § 9109(a)(3), 104 Stat. 1388–356.
47101(b)	49 App.:2201(c).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 502(c), (d); added Oct. 31, 1992, Pub. L. 102–581, § 101, 106 Stat. 4875.
47101(c)	49 App.:2201(d).	
47101(d)	49 App.:2201(a)(5).	Sept. 3, 1982, Pub. L. 97–248, § 502(a)(5), 96 Stat. 671; Nov. 5, 1990, Pub. L. 101–508, § 9103(1), 104 Stat. 1388–354.
47101(e)	49 App.:2201(a)(3). 49 App.:2202(a)(20).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(20), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
47101(f)	49 App.:2201(a)(4).	Sept. 3, 1982, Pub. L. 97–248, § 502(a)(4), 96 Stat. 671; Dec. 30, 1987, Pub. L. 100–223, § 102(a), 101 Stat. 1487.
47101(g)	49 App.:2201(b) (2d, last sentences).	
47101(h)	49 App.:2208(b)(5) (last sentence words before 11th comma).	

In subsection (a), before clause (1), the text of 49 App.:2201(a)(2), (9), and (10) is omitted as executed. The words ''It is the policy of the United States'' are substituted for ''The Congress hereby . . . declares'' in 49 App.:2201(a) (words before cl. (1)), ''it is in the national interest'' in 49 App.:2201(a)(12), ''are not in the public interest and'' in 49 App.:2201(a)(13), ''It is declared to be in the national interest to'' in 49 App.:2201(b), and ''It is declared to be national policy that'' in 49 App.:2208(b)(5) for consistency in the revised title and with other titles of the United States Code. In clause (1), the word ''is'' is substituted for ''will continue to be'' to eliminate unnecessary words. In clause (2), the words ''with due regard'' are omitted as surplus. In clause (3), the words ''reliever airports make an important contribution to the efficient operation of the airport and airway system'' are omitted as executed. In clause (4), the words ''cargo hub airports play a critical role in the movement of commerce through the airport and airway system'' are omitted as executed. In clause (5), the words ''and promote'' are omitted as surplus.

In subsection (d), the word ''to'' is substituted for ''with due regard for the goals expressed therein of'' to eliminate unnecessary words.

In subsection (e), before clause (1), the words ''The facilities provided may include'' are substituted for ''including'' because of the restatement. Clause (2) is substituted for ''reliever heliports'' to incorporate the definition of that term from 49 App.:2202(a)(19) into this subsection.

In subsection (f), before clause (1), the words ''the goal of'' are omitted as surplus.

In subsection (g), the words ''formulated'' and ''due'' are omitted as surplus. The words ''process of developing airport plans and programs'' are substituted for ''process'' for clarity.

PUB. L. 103–429

This amends 49:47101(a)(12) to translate a cross-reference to the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 671) to the corresponding cross-reference of title 49, United States Code.

AMENDMENTS

1994—Subsec. (a)(11). Pub. L. 103–305, § 104, added par. (11).

Subsec. (a)(12). Pub. L. 103–429 substituted ''subchapter'' for ''Act''.

Pub. L. 103–305, § 110, added par. (12).

Subsec. (a)(13). Pub. L. 103–305, § 110, added par. (13).

EFFECTIVE DATE OF 1994 AMENDMENT

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

STUDY ON INNOVATIVE FINANCING

Section 520 of Pub. L. 103–305 provided that:

''(a) STUDY.—The Secretary shall conduct a study on innovative approaches for using Federal funds to finance airport development as a means of supplementing financing available under the Airport Improvement Program.

''(b) MATTERS TO BE CONSIDERED.—In conducting the study under subsection (a), the Secretary shall consider, at a minimum, the following:

''(1) Mechanisms that will produce greater investments in airport development per dollar of Federal expenditure.

''(2) Approaches that would permit entering into agreements with non-Federal entities, such as airport sponsors, for the loan of Federal funds, guarantee of loan repayment, or purchase of insurance or other forms of enhancement for borrower debt, including the use of unobligated Airport Improvement Program contract authority and unobligated balances in the Airport and Airway Trust Fund.

''(3) Means to lower the cost of financing airport development.

''(c) CONSULTATION.—In considering innovative financing pursuant to this section, the Secretary may consult with airport owners and operators and public and private sector experts.

''(d) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act [Aug. 23, 1994], the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).''

§ 47102. Definitions

In this subchapter—

(1) ''air carrier airport'' means a public airport regularly served by—

(A) an air carrier certificated by the Secretary of Transportation under section 41102 of this title (except a charter air carrier); or

(B) at least one air carrier—

(i) operating under an exemption from section 41101(a)(1) of this title that the Secretary grants; and

(ii) having at least 2,500 passenger boardings at the airport during the prior calendar year.

(2) ''airport''—

(A) means—

(i) an area of land or water used or intended to be used for the landing and taking off of aircraft;

(ii) an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; and

(iii) airport buildings and facilities located in any of those areas; and

(B) includes a heliport.

(3) ''airport development'' means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) constructing, repairing, or improving a public-use airport, including—

(i) removing, lowering, relocating, marking, and lighting an airport hazard; and

(ii) preparing a plan or specification, including carrying out a field investigation.

(B) acquiring for, or installing at, a public-use airport—

(i) a navigation aid or another aid (including a precision approach system) used by aircraft for landing at or taking off from the airport, including preparing the site as required by the acquisition or installation;

(ii) safety or security equipment, including explosive detection devices and universal access systems, the Secretary requires by regulation for, or approves as contributing significantly to, the safety or security of individuals and property at the airport;

(iii) equipment to remove snow, to measure runway surface friction, or for aviation-related weather reporting;

(iv) firefighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats;

(v) aircraft deicing equipment and structures (except aircraft deicing fluids and storage facilities for the equipment and fluids); and

(vi) interactive training systems.

(C) acquiring an interest in land or airspace, including land for future airport development, that is needed—

(i) to carry out airport development described in subclause (A) or (B) of this clause; or

(ii) to remove or mitigate an existing airport hazard or prevent or limit the creation of a new airport hazard.

(D) acquiring land for, or constructing, a burn area training structure on or off the airport to provide live fire drill training for aircraft rescue and firefighting personnel required to receive the training under regulations the Secretary prescribes, including basic equipment and minimum structures to support the training under standards the Administrator of the Federal Aviation Administration prescribes.

(E) relocating after December 31, 1991, an air traffic control tower and any navigational aid (including radar) if the relocation is necessary to carry out a project approved by the Secretary under this subchapter.

(F) constructing, reconstructing, repairing, or improving an airport, or purchasing capital equipment for an airport, if paid for by a grant under this subchapter and necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), except constructing or purchasing capital equipment that would benefit primarily a revenue-producing area of the airport used by a nonaeronautical business.

(G) acquiring land for, or work necessary to construct, a pad suitable for deicing aircraft before takeoff at a commercial service airport, including constructing or reconstructing paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, paved access for deicing vehicles and aircraft, but not including acquiring aircraft deicing fluids or constructing or reconstructing storage facilities for aircraft deicing equipment or fluids.

(4) ''airport hazard'' means a structure or object of natural growth located on or near a public-use airport, or a use of land near the airport, that obstructs or otherwise is hazardous to the landing or taking off of aircraft at or from the airport.

(5) ''airport planning'' means planning as defined by regulations the Secretary prescribes and includes integrated airport system planning.

(6) ''amount made available under section 48103 of this title'' means the amount authorized for grants under section 48103 of this title as reduced by any law enacted after September 3, 1982.

(7) ''commercial service airport'' means a public airport in a State that the Secretary determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

(8) ''integrated airport system planning'' means developing for planning purposes information and guidance to decide the extent, kind, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports, including—

(A) identifying system needs;

(B) developing an estimate of systemwide development costs;

(C) conducting studies, surveys, and other planning actions, including those related to airport access, needed to decide which aeronautical needs should be met by a system of airports; and

(D) standards prescribed by a State, except standards for safety of approaches, for airport development at nonprimary public-use airports.

(9) ''landed weight'' means the weight of aircraft transporting only cargo in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

(10) ''passenger boardings''—

(A) means revenue passenger boardings on an aircraft in service in air commerce as the Secretary determines under regulations the Secretary prescribes; and

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

(11) ''primary airport'' means a commercial service airport the Secretary determines to have more than 10,000 passenger boardings each year.

(12) ''project'' means a project, separate projects included in one project grant applica-

tion, or all projects to be undertaken at an airport in a fiscal year, to achieve airport development or airport planning.

(13) ''project cost'' means a cost involved in carrying out a project.

(14) ''project grant'' means a grant of money the Secretary makes to a sponsor to carry out at least one project.

(15) ''public agency'' means—

(A) a State or political subdivision of a State;

(B) a tax-supported organization; or

(C) an Indian tribe or pueblo.

(16) ''public airport'' means an airport used or intended to be used for public purposes—

(A) that is under the control of a public agency; and

(B) of which the area used or intended to be used for the landing, taking off, or surface maneuvering of aircraft is publicly owned.

(17) ''public-use airport'' means—

(A) a public airport; or

(B) a privately-owned airport used or intended to be used for public purposes that is—

(i) a reliever airport; or

(ii) determined by the Secretary to have at least 2,500 passenger boardings each year and to receive scheduled passenger aircraft service.

(18) ''reliever airport'' means an airport the Secretary designates to relieve congestion at a commercial service airport and to provide more general aviation access to the overall community.

(19) ''sponsor'' means—

(A) a public agency that submits to the Secretary under this subchapter an application for financial assistance; and

(B) a private owner of a public-use airport that submits to the Secretary under this subchapter an application for financial assistance for the airport.

(20) ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1248; Pub. L. 103–305, title I, § 105, Aug. 23, 1994, 108 Stat. 1572.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47102(1)	(no source).	
47102(2)	49 App.:2202(a)(1).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(1), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 103(a), 101 Stat. 1488.
	49 App.:2202(a)(21).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(13)–(19), (21)–(23), 96 Stat. 673, 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
47102(3)	49 App.:2202(a)(2).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(2), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 103(b), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, § 9102, 104 Stat. 1388–354; Oct. 31, 1992, Pub. L. 102–581, § 112(a), (b), 106 Stat. 4880.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47102(4)	49 App.:2202(a)(3).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(3)–(5), (7), (8), (b), 96 Stat. 673, 674.
47102(5)	49 App.:2202(a)(4).	
47102(6)	49 App.:2202(b).	
47102(7)	49 App.:2202(a)(5).	
47102(8)	49 App.:2202(a)(7).	
47102(9)	49 App.:2202(a)(9).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 503(a)(9); added Dec. 30, 1987, Pub. L. 100–223, § 103(c)(2), 101 Stat. 1488.
47102(10)	49 App.:2202(a)(10).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(10), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), (d), 101 Stat. 1488; Oct. 31, 1992, Pub. L. 102–581, § 115, 106 Stat. 4881.
47102(11)	49 App.:2202(a)(12).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(12), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), (e), 101 Stat. 1488.
47102(12)	49 App.:2202(a)(13).	
47102(13)	49 App.:2202(a)(14).	
47102(14)	49 App.:2202(a)(15).	
47102(15)	49 App.:2202(a)(16).	
47102(16)	49 App.:2202(a)(8), (17).	
47102(17)	49 App.:2202(a)(18).	
47102(18)	49 App.:2202(a)(19).	
47102(19)	49 App.:2202(a)(22).	
47102(20)	49 App.:2202(a)(23).	

In this section, before clause (1), the words ''In this subchapter'' are substituted for ''As used in this chapter'' and ''Whenever in this chapter reference is made to . . . such reference shall mean'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

Clause (1) restates the definition of ''air carrier airport'' that was contained in section 11(1) of the Airport and Airway Development Act of 1970 as in effect both on February 18, 1980, and immediately before September 3, 1982. The clause is added to this section to eliminate the cross-references to definitions in section 11 of the Airport and Airway Development Act of 1970 that are contained in the source provisions restated in sections 47106(d) and 47119(a) of the revised title. Because some of the terms used in the definition of ''air carrier airport'' were themselves defined in section 11, the definitions of those terms are incorporated in the definition added in clause (1) to the extent they differ from the definitions of those terms restated in this section. The words ''Secretary of Transportation'' and ''Secretary'' are substituted for ''Civil Aeronautics Board'' because of the transfer of authority under 49 App.:1551(b)(1)(E).

In clause (2), before subclause (A), the text of 49 App.:2202(a)(21) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In subclause (A)(iii), the words ''those areas'' are substituted for ''thereon'' for clarity.

In clause (3)(A), before subclause (i), the words ''any work involved in'' and ''or portion thereof'' are eliminated as unnecessary. The word ''reconstructing'' is omitted as being included in ''constructing''. In subclause (ii), the words ''carrying out a field investigation'' are substituted for ''field investigations incidental thereto'' for clarity.

In clause (3)(B), before subclause (i), the word ''for'' is substituted for ''by'' for clarity. In subclause (i), the words ''required by the acquisition or installation'' are substituted for ''thereby required'' for clarity. In subclause (ii), the word ''individuals'' is substituted for ''persons'' for clarity and consistency in the revised title and with other titles of the Code.

In clause (3)(C), before subclause (i), the words ''interest in land or airspace'' are substituted for ''land or of any interest therein, or of any easement through or other interest in airspace'' to eliminate unnecessary words. In subclause (ii), the words ''existing airport

hazard . . . the creation of a new airport hazard'' are added for clarity and consistency in this chapter.

In clause (3)(D), the words ''any . . . work involved to'' are omitted as surplus. The word ''Secretary'' is substituted for ''Department of Transportation'' because of 49:102(b). The words ''Administrator of the'' are added because of 49:106(b).

In clause (4), the word ''near'' is substituted for ''in the vicinity of'' to eliminate unnecessary words. The words ''obstructs or otherwise is hazardous to the landing or taking off'' are substituted for ''obstructs the airspace required for the flight of aircraft in landing or taking off . . . or is otherwise hazardous to such landing or taking off'' for clarity and to eliminate unnecessary words.

In clause (6), the words ''for a fiscal year . . . for that fiscal year'' are omitted as surplus. The words ''authorized for grants'' are substituted for ''made available for obligation'' for clarity and consistency. The word ''law'' is substituted for ''Act of Congress'' for consistency in the revised title and with other titles of the Code. The words ''or limited'' are omitted as surplus.

In clause (8), before subclause (A), the words ''the initial as well as continuing'' and ''nature'' are omitted as surplus. In subclause (C), the words ''needed to decide which aeronautical needs should be met'' are substituted for ''as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met'' for clarity and to eliminate unnecessary words. The word ''particular'' is eliminated as unnecessary. In subclause (D), the word ''prescribed'' is substituted for ''the establishment . . . of'' for consistency in the revised title and with other titles of the Code.

In clause (9), the words ''scheduled and nonscheduled'' are omitted as surplus. The word ''cargo'' is substituted for ''property (including mail)'' for consistency in the revised title.

In clause (10), before subclause (A), the words ''passenger boardings'' are substituted for ''passengers enplaned'' for clarity. In subclause (A), the words ''domestic, territorial, and international'', ''in the States'', ''scheduled and nonscheduled'', and ''intrastate, interstate, and foreign'' are omitted as surplus. In subclause (B), the words ''who continue on an aircraft in'' are substituted for ''on board'' for clarity. (See Cong. Rec., pp. S15296, 15297, Oct. 28, 1987, daily ed.). The words ''that stops'' are substituted for ''which transit'' for clarity. The word ''located'' is omitted as surplus.

In clause (12), the words ''included in one project grant application'' are substituted for ''submitted together'', and the words ''or all projects to be undertaken'' are substituted for ''including the combined submission of all projects'', for clarity and consistency in this chapter.

In clause (15)(A), the words ''or any agency of a State, a municipality . . . other'' are omitted as surplus.

In clause (19)(A), the words ''either individually or jointly with one or more other public agencies'' are omitted as surplus.

In clause (20), the words ''the Commonwealth of'' and ''the Government of'' are omitted as surplus.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in par. (3)(F), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Clean Air Act, referred to in par. (3)(F), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in par. (3)(F), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

AMENDMENTS

1994—Par. (3)(B)(ii). Pub. L. 103–305 inserted '', including explosive detection devices and universal access systems,'' after ''or security equipment''.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40117, 44502, 47151, 47501, 49104 of this title; title 19 section 1644a; title 50 App. section 1622.

§ 47103. National plan of integrated airport systems

(a) GENERAL REQUIREMENTS AND CONSIDERATIONS.—The Secretary of Transportation shall maintain the plan for developing public-use airports in the United States, named ''the national plan of integrated airport systems''. The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service. Airport development included in the plan may not be limited to meeting the needs of any particular classes or categories of public-use airports. In maintaining the plan, the Secretary of Transportation shall consider the needs of each segment of civil aviation and the relationship of each airport to—

(1) the rest of the transportation system in the particular area;

(2) forecasted technological developments in aeronautics; and

(3) forecasted developments in other modes of intercity transportation.

(b) SPECIFIC REQUIREMENTS.—In maintaining the plan, the Secretary of Transportation shall—

(1) to the extent possible and as appropriate, consult with departments, agencies, and instrumentalities of the United States Government, with public agencies, and with the aviation community;

(2) consider tall structures that reduce safety or airport capacity; and

(3) make every reasonable effort to address the needs of air cargo operations, Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations, and rotary wing aircraft operations.

(c) AVAILABILITY OF DOMESTIC MILITARY AIRPORTS AND AIRPORT FACILITIES.—To the extent possible, the Secretary of Defense shall make domestic military airports and airport facilities available for civil use. In advising the Secretary of Transportation under subsection (a) of this

section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities are available for civil use.

(d) PUBLICATION.—The Secretary of Transportation shall publish the status of the plan every 2 years.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1251.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47103(a)	49 App.:2203(a)(1) (2d–last sentences).	Sept. 3, 1982, Pub. L. 97–248, § 504(a)(1), 96 Stat. 675; Dec. 30, 1987, Pub. L. 100–223, § 104(a)(1)(A), (2), 101 Stat. 1489.
47103(b)	49 App.:2203(a)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 504(a)(2); added Dec. 30, 1987, Pub. L. 100–223, § 104(a)(1)(B), 101 Stat. 1489.
	49 App.:2203(c).	Sept. 3, 1982, Pub. L. 97–248, § 504(c), 96 Stat. 676.
47103(c)	49 App.:2203(d)(1).	Sept. 3, 1982, Pub. L. 97–248, § 504(d)(1), 96 Stat. 676; Dec. 30, 1987, Pub. L. 100–223, § 104(b)(2), 101 Stat. 1489.
47103(d)	49 App.:2203(a)(1) (1st sentence).	

In subsection (a), before clause (1), the words ''shall maintain'' and ''In maintaining'' are substituted for ''In reviewing and revising'' for clarity and consistency in the revised title. The word ''named'' is substituted for ''After September 3, 1982, the revised national airport system plan shall be known as'', and the words ''the national defense requirements of the Secretary of Defense'' are substituted for ''requirements in support of the national defense as determined by the Secretary of Defense'', to eliminate unnecessary words. The words ''included in the plan may not be limited to meeting the needs of any particular'' are substituted for ''identified by this plan shall not be limited to the requirements of any'' for clarity and consistency in this section. The words ''among other things'' are omitted as surplus.

In subsection (b), before clause (1), the words ''In maintaining'' are substituted for ''In reviewing and revising'' for consistency in this section. In clause (1), the words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''Federal . . . agencies'' for consistency in the revised title and with other titles of the United States Code. In clauses (2) and (3), the words ''As soon as feasible following December 30, 1987'' are omitted as obsolete. In clause (3), the word ''legitimate'' is omitted as surplus.

In subsection (c), the words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:133.

In subsection (d), the words ''Not later than two years after September 3, 1982'' are omitted as executed.

§ 47104. Project grant authority

(a) GENERAL AUTHORITY.—To maintain a safe and efficient nationwide system of public-use airports that meets the present and future needs of civil aeronautics, the Secretary of Transportation may make project grants under this subchapter from the Airport and Airway Trust Fund.

(b) INCURRING OBLIGATIONS.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title as soon as the amounts are apportioned under section 47114(c) and (d)(2) of this title.

(c) EXPIRATION OF AUTHORITY.—After September 30, 1996, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) remaining available after that date under section 47117(b) of this title; or

(2) recovered by the United States Government from grants made under this chapter if the amounts are obligated only for increases under section 47108(b)(2) and (3) of this title in the maximum amount of obligations of the Government for any other grant made under this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1252; Pub. L. 103–305, title I, § 101(b), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 103–429, § 6(63), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47104(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2204(a) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 505(a) (1st sentence), 96 Stat. 676.
47104(b)	49 App.:2204(b)(1) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 505(b)(1), 96 Stat. 677; Nov. 5, 1990, Pub. L. 101–508, § 9104(2), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 102(b), 106 Stat. 4877.
47104(c)	49 App.:2204(b)(1) (last sentence).	

In subsection (a), the words ''project grants'' are substituted for ''grants . . . for airport development and airport planning by project grants'' in 49 App.:2204(a) to eliminate unnecessary words and because of the definitions of ''project'' and ''project grant'' in section 47102 of the revised title.

In subsection (b), the words ''and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) of this section'' are omitted as surplus.

In subsection (c), the words ''except for obligations of amounts'' are substituted for ''except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds'' to eliminate unnecessary words.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47104(c)	49 App.:2204(b)(1) (last sentence). 49App.:2204 note.	Sept. 3, 1982, Pub. L. 97–248, § 505(b)(1) (last sentence), as amended May 26, 1994, Pub. L. 103–260, § 109, 108 Stat. 700.

In subsection (c), the text of section 109(b) of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 700) is omitted as executed.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–429 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''After September 30, 1996, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts remaining available after that date under section 47117(b) of this title.''

Pub. L. 103–305 substituted ''After September 30, 1996, the Secretary'' for ''After September 30, 1993, the Secretary''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47107, 47118, 47524, 48103 of this title.

§ 47105. Project grant applications

(a) SUBMISSION AND CONSULTATION.—(1) An application for a project grant under this subchapter may be submitted to the Secretary of Transportation by—

(A) a sponsor; or

(B) a State, as the only sponsor, for an airport development project benefitting 1 or more airports in the State or for airport planning for projects for 1 or more airports in the State if—

(i) the sponsor of each airport gives written consent that the State be the applicant;

(ii) the Secretary is satisfied there is administrative merit and aeronautical benefit in the State being the sponsor; and

(iii) an acceptable agreement exists that ensures that the State will comply with appropriate grant conditions and other assurances the Secretary requires.

(2) Before deciding to undertake an airport development project at an airport under this subchapter, a sponsor shall consult with the airport users that will be affected by the project.

(3) This subsection does not authorize a public agency that is subject to the laws of a State to apply for a project grant in violation of a law of the State.

(b) CONTENTS AND FORM.—An application for a project grant under this subchapter—

(1) shall describe the project proposed to be undertaken;

(2) may propose a project only for a public-use airport included in the current national plan of integrated airport systems;

(3) may propose airport development only if the development complies with standards the Secretary prescribes or approves, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches; and

(4) shall be in the form and contain other information the Secretary prescribes.

(c) STATE STANDARDS FOR AIRPORT DEVELOPMENT.—The Secretary may approve standards (except standards for safety of approaches) that a State prescribes for airport development at nonprimary public-use airports in the State. On approval under this subsection, a State's standards apply to the nonprimary public-use airports in the State instead of the comparable standards prescribed by the Secretary under subsection (b)(3) of this section. The Secretary, or the State with the approval of the Secretary, may revise standards approved under this subsection.

(d) CERTIFICATION OF COMPLIANCE.—The Secretary may require a sponsor to certify that the sponsor will comply with this subchapter in carrying out the project. The Secretary may rescind the acceptance of a certification at any time. This subsection does not affect an obligation or responsibility of the Secretary under another law of the United States.

(e) PREVENTIVE MAINTENANCE.—After January 1, 1995, the Secretary may approve an application under this subchapter for the replacement or reconstruction of pavement at an airport only if the sponsor has provided such assurances or certifications as the Secretary may determine appropriate that such airport has implemented an effective airport pavement maintenance-management program. The Secretary may require such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

(f) NOTIFICATION.—The sponsor of an airport for which an amount is apportioned under section 47114(c) of this title shall notify the Secretary of the fiscal year in which the sponsor intends to submit a project grant application for the apportioned amount. The notification shall be given by the time and contain the information the Secretary prescribes.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1253; Pub. L. 103–305, title I, §§ 106, 107(a), Aug. 23, 1994, 108 Stat. 1572.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47105(a)(1)(A).	49 App.:2208(a)(1) (1st sentence related to authority to submit applications).	Sept. 3, 1982, Pub. L. 97–248, §§ 509(a)(1), (c), (d), 511(c), 96 Stat. 682, 685, 688.
47105(a)(1)(B).	49 App.:2208(a)(3).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 509(a)(3); added Dec. 30, 1987, Pub. L. 100–223, § 108, 101 Stat. 1498.
47105(a)(2) ..	49 App.:2210(c).	
47105(a)(3) ..	49 App.:2208(a)(1) (3d sentence).	
47105(b)	49 App.:2208(a)(1) (1st sentence related to form and contents, 2d, last sentences).	
47105(c)	49 App.:2208(c).	
47105(d)	49 App.:2208(d).	
47105(e)	49 App.:2208(e).	Sept. 3, 1982, Pub. L. 97–248, § 509(e), 96 Stat. 685; Dec. 30, 1987, Pub. L. 100–223, § 106(b)(3)(B), 101 Stat. 1498.

In subsection (a)(1), before clause (A), the words ''Subject to the provisions of this subsection'' are omitted as surplus. The words ''for one or more projects'' are omitted as surplus because of the definition of ''project grant'' in section 47102 of the revised title. Clause (A) is substituted for ''(A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors, acting jointly'' because of the definition of ''sponsor'' in section 47102 of the revised title.

In subsection (a)(2), the word ''Before'' is substituted for ''In'' as the more appropriate word. The words ''at an airport'' are substituted for ''at which such project is proposed'' to eliminate unnecessary words. The words ''airport users that will be affected by the project'' are substituted for ''affected parties'' for clarity.

Subsection (a)(3) is substituted for 49 App.:2208(a)(1) (3d sentence) to eliminate unnecessary words.

In subsection (b)(1), the words ''shall describe'' are substituted for ''setting forth'' for clarity.

In subsection (b)(2), the word ''project'' is substituted for ''airport development or airport planning'' because of the definition of ''project'' in section 47102 of the revised title. The words ''prepared pursuant to section 2203 of the Appendix'' are eliminated as unnecessary.

In subsection (c), the words ''from time to time'' are eliminated as unnecessary.

In subsection (d), the words ''in connection with any project'' are omitted as surplus. The words ''that the sponsor will comply with this subchapter in carrying out the project'' are substituted for ''that such sponsor

will comply with all of the statutory and administrative requirements imposed on such sponsor under this chapter in connection with such project'' to eliminate unnecessary words. The words ''or discharge'' are omitted as included in ''affect''. The words ''including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 303 of title 49, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b) [42 U.S.C. 2000d et seq.], title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)'' are omitted as included in ''another law of the United States''.

In subsection (e), the words ''of an airport for which'' are substituted for ''to which'' for clarity.

AMENDMENTS

1994—Subsec. (a)(1)(B). Pub. L. 103–305, § 106, in introductory provisions, substituted ''1 or more airports'' for ''at least 2 airports'' in two places and struck out ''similar'' before ''projects''.

Subsecs. (e), (f). Pub. L. 103–305, § 107(a), added subsec. (e) and redesignated former subsec. (e) as (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47117 of this title.

§ 47106. Project grant application approval conditioned on satisfaction of project requirements

(a) PROJECT GRANT APPLICATION APPROVAL.—The Secretary of Transportation may approve an application under this subchapter for a project grant only if the Secretary is satisfied that—

(1) the project is consistent with plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport;

(2) the project will contribute to carrying out this subchapter;

(3) enough money is available to pay the project costs that will not be paid by the United States Government under this subchapter;

(4) the project will be completed without unreasonable delay; and

(5) the sponsor has authority to carry out the project as proposed.

(b) AIRPORT DEVELOPMENT PROJECT GRANT APPLICATION APPROVAL.—The Secretary may approve an application under this subchapter for an airport development project grant for an airport only if the Secretary is satisfied that—

(1) the sponsor, a public agency, or the Government holds good title to the areas of the airport used or intended to be used for the landing, taking off, or surface maneuvering of aircraft, or that good title will be acquired;

(2) the interests of the community in or near which the project may be located have been given fair consideration; and

(3) the application provides touchdown zone and centerline runway lighting, high intensity runway lighting, or land necessary for installing approach light systems that the Secretary, considering the category of the airport and the kind and volume of traffic using it, decides is necessary for safe and efficient use of the airport by aircraft.

(c) ENVIRONMENTAL REQUIREMENTS.—(1) The Secretary may approve an application under this subchapter for an airport development project involving the location of an airport or runway or a major runway extension—

(A) only if the sponsor certifies to the Secretary that—

(i) an opportunity for a public hearing was given to consider the economic, social, and environmental effects of the location and the location's consistency with the objectives of any planning that the community has carried out; and

(ii) the airport management board has voting representation from the communities in which the project is located or has advised the communities that they have the right to petition the Secretary about a proposed project;

(B) only if the chief executive officer of the State in which the project will be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards, except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if—

(i) the State has not approved any applicable State or local standards; and

(ii) the Administrator has prescribed applicable standards; and

(C) if the application is found to have a significant adverse effect on natural resources, including fish and wildlife, natural, scenic, and recreation assets, water and air quality, or another factor affecting the environment, only after finding that no possible and prudent alternative to the project exists and that every reasonable step has been taken to minimize the adverse effect.

(2) The Secretary may approve an application under this subchapter for an airport development project that does not involve the location of an airport or runway, or a major runway extension, at an existing airport without requiring an environmental impact statement related to noise for the project if—

(A) completing the project would allow operations at the airport involving aircraft complying with the noise standards prescribed for ''stage 2'' aircraft in section 36.1 of title 14, Code of Federal Regulations, to replace existing operations involving aircraft that do not comply with those standards; and

(B) the project meets the other requirements under this subchapter.

(3) At the Secretary's request, the sponsor shall give the Secretary a copy of the transcript of any hearing held under paragraph (1)(A) of this subsection.

(4)(A) Notice of certification or of refusal to certify under paragraph (1)(B) of this subsection shall be provided to the Secretary not later than 60 days after the Secretary receives the application.

(B) The Secretary shall condition approval of the application on compliance with the applicable standards during construction and operation.

(5) The Secretary may make a finding under paragraph (1)(C) of this subsection only after

completely reviewing the matter. The review and finding must be a matter of public record.

(d) WITHHOLDING APPROVAL.—(1) The Secretary may withhold approval of an application under this subchapter for amounts apportioned under section 47114(c) and (e) of this title for violating an assurance or requirement of this subchapter only if—

(A) the Secretary provides the sponsor an opportunity for a hearing; and

(B) not later than 180 days after the later of the date of the application or the date the Secretary discovers the noncompliance, the Secretary finds that a violation has occurred.

(2) The 180-day period may be extended by—

(A) agreement between the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding approval may obtain review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The action must be brought not later than 60 days after the order is served on the petitioner.

(e) REPORTS RELATING TO CONSTRUCTION OF CERTAIN NEW HUB AIRPORTS.—At least 90 days prior to the approval under this subchapter of a project grant application for construction of a new hub airport that is expected to have 0.25 percent or more of the total annual enplanements in the United States, the Secretary shall submit to Congress a report analyzing the anticipated impact of such proposed new airport on—

(1) the fees charged to air carriers (including landing fees), and other costs that will be incurred by air carriers, for using the proposed airport;

(2) air transportation that will be provided in the geographic region of the proposed airport; and

(3) the availability and cost of providing air transportation to rural areas in such geographic region.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1254; Pub. L. 103–305, title I, §§ 108, 109, Aug. 23, 1994, 108 Stat. 1573.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47106(a)	49 App.:2208(b) (1)(A)–(D).	Sept. 3, 1982, Pub. L. 97–248, §§ 503(a)(8), 509(b)(1)(A)–(D), (2)–(4), (5) (last sentence words after 11th comma), (6)(B)–(8), 96 Stat. 673, 683, 684.
47106(b)	49 App.:2202(a)(8). 49 App.:2208(b) (2)–(4).	
47106(c) (1)(A).	49 App.:2208(b) (6)(A).	Sept. 3, 1982, Pub. L. 97–248, § 509(b)(6)(A), 96 Stat. 684; Oct. 31, 1992, Pub. L. 102–581, § 113(b), 106 Stat. 4881.
47106(c) (1)(B).	49 App.:2208(b) (7)(A) (1st, 2d sentences).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47106(c) (1)(C).	49 App.:2208(b)(5) (last sentence words between 11th and 12th commas and after last comma).	
47106(c)(2) ..	49 App.:2208(b)(8).	
47106(c)(3) ..	49 App.:2208(b) (6)(B).	
47106(c)(4) ..	49 App.:2208(b) (7)(A) (last sentence), (B).	
47106(c)(5) ..	49 App.:2208(b)(5) (last sentence words between 12th and last commas).	
47106(d)	49 App.:1731.	May 21, 1970, Pub. L. 91–258, 84 Stat. 219, § 31; added Feb. 18, 1980, Pub. L. 96–193, § 206, 94 Stat. 55; Sept. 3, 1982, Pub. L. 97–248, § 524(e), 96 Stat. 697.
47106(e)	49 App.:2218(b) (related to application).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 519(b) (related to application); added Dec. 30, 1987, Pub. L. 100–223, § 112(2), 101 Stat. 1504.

In subsection (a)(1), the word ''reasonably'' is omitted as surplus.

In subsection (a)(2), the words ''carrying out'' are substituted for ''accomplishment of the purposes of'' for consistency in the revised title.

In subsection (a)(3), the words ''that portion of'' are omitted as surplus.

In subsection (a)(5), the words ''which submitted the project grant application'' and ''legal'' are omitted as surplus.

In subsection (b), before clause (1), the words ''for an airport'' are added for clarity. In clause (1), the words ''or an agency thereof'' are omitted surplus. In clause (3), the words ''that the Secretary . . . decides is necessary'' are substituted for ''when it is determined by the Secretary that any such item is required'' to eliminate unnecessary words.

In subsection (c)(1)(B), before subclause (i), the words ''chief executive officer'' are substituted for ''Governor'' because this chapter applies to the District of Columbia which does not have a Governor. The words ''except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if'' are substituted for ''In any case where . . . certification shall be obtained from such Administrator'' for clarity. Subclause (i) is substituted for ''such standards have not been approved'' for clarity.

In subsection (c)(2), before clause (A), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''that does not involve the location of an airport or runway, or a major runway extension'' are substituted for ''(other than an airport development project in which paragraph (7)(A) applies)'' for clarity. The words ''the preparation of'' are omitted as surplus. In clause (B), the words ''statutory and administrative'' are omitted as surplus.

In subsection (c)(4)(A), the words ''to the Secretary'' are added for clarity.

In subsection (c)(5), the words ''full and'' are omitted as surplus. The words ''in writing'' are omitted as surplus because of the requirement that the decision be a matter of public record.

In subsection (d)(1), the words ''(as defined by section 1711(8) of this Appendix, as in effect on February 18, 1980)'' are omitted because of the definition of ''air carrier airport'' in section 47102 of the revised title.

In subsection (d)(2), the words ''Notwithstanding any other provision of the Airport and Airway Improvement Act of 1982 [49 App. U.S.C. 2201 et seq.]'' and ''single'' are omitted as surplus.

In subsection (e)(1) and (2), the word ''sponsor'' is substituted for ''applicant'' for consistency.

In subsection (e)(1), before clause (A), the words ''under this subchapter'' are added for consistency in this section. The word ''other'' is omitted as surplus.

In subsection (e)(2)(A), the word ''mutual'' is omitted as surplus.

In subsection (e)(3), the words ''adversely affected'' are substituted for ''aggrieved'' for consistency in the revised title and with other titles of the United States Code. The words ''the date on which'' are omitted as surplus.

AMENDMENTS

1994—Subsecs. (d), (e). Pub. L. 103–305 added subsec. (e), redesignated former subsec. (e) as (d), and struck out former subsec. (d) which read as follows:

''(d) GENERAL AVIATION AIRPORT PROJECT GRANT APPLICATION APPROVAL.—(1) In this subsection, 'general aviation airport' means a public airport that is not an air carrier airport.

''(2) The Secretary may approve an application under this subchapter for an airport development project included in a project grant application involving the construction or extension of a runway at a general aviation airport located on both sides of a boundary line separating 2 counties within a State only if, before the application is submitted to the Secretary, the project is approved by the governing body of each village incorporated under the laws of the State and located entirely within 5 miles of the nearest boundary of the airport.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 49101, 49102, 49104, 49105 of this title.

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) GENERAL WRITTEN ASSURANCES.—The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) the airport will be available for public use on reasonable conditions and without unjust discrimination;

(2) air carriers making similar use of the airport will be subject to substantially comparable charges—

(A) for facilities directly and substantially related to providing air transportation; and

(B) regulations and conditions, except for differences based on reasonable classifications, such as between—

(i) tenants and nontenants; and

(ii) signatory and nonsignatory carriers;

(3) the airport operator will not withhold unreasonably the classification or status of tenant or signatory from an air carrier that assumes obligations substantially similar to those already imposed on air carriers of that classification or status;

(4) a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport, with a right given to only one fixed-base operator to provide services at an airport deemed not to be an exclusive right if—

(A) the right would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide the services; and

(B) allowing more than one fixed-base operator to provide the services would require reducing the space leased under an existing agreement between the one fixed-base operator and the airport owner or operator;

(5) fixed-base operators similarly using the airport will be subject to the same charges;

(6) an air carrier using the airport may service itself or use any fixed-base operator allowed by the airport operator to service any carrier at the airport;

(7) the airport and facilities on or connected with the airport will be operated and maintained suitably, with consideration given to climatic and flood conditions;

(8) a proposal to close the airport temporarily for a nonaeronautical purpose must first be approved by the Secretary;

(9) appropriate action will be taken to ensure that terminal airspace required to protect instrument and visual operations to the airport (including operations at established minimum flight altitudes) will be cleared and protected by mitigating existing, and preventing future, airport hazards;

(10) appropriate action, including the adoption of zoning laws, has been or will be taken to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations;

(11) each of the airport's facilities developed with financial assistance from the United States Government and each of the airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by Government aircraft in common with other aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facility used;

(12) the airport owner or operator will provide, without charge to the Government, property interests of the sponsor in land or water areas or buildings that the Secretary decides are desirable for, and that will be used for, constructing at Government expense, facilities for carrying out activities related to air traffic control or navigation;

(13) the airport owner or operator will maintain a schedule of charges for use of facilities and services at the airport—

(A) that will make the airport as self-sustaining as possible under the circumstances existing at the airport, including volume of traffic and economy of collection; and

(B) without including in the rate base used for the charges the Government's share of costs for any project for which a grant is made under this subchapter or was made under the Federal Airport Act or the Airport and Airway Development Act of 1970;

(14) the project accounts and records will be kept using a standard system of accounting that the Secretary, after consulting with appropriate public agencies, prescribes;

(15) the airport owner or operator will submit any annual or special airport financial and operations reports to the Secretary that the Secretary reasonably requests and make such reports available to the public;

(16) the airport owner or operator will maintain a current layout plan of the airport that meets the following requirements:

(A) the plan will be in a form the Secretary prescribes;

(B) the Secretary will approve the plan and any revision or modification before the plan, revision, or modification takes effect;

(C) the owner or operator will not make or allow any alteration in the airport or any of its facilities if the alteration does not comply with the plan the Secretary approves, and the Secretary is of the opinion that the alteration may affect adversely the safety, utility, or efficiency of the airport; and

(D) when an alteration in the airport or its facility is made that does not conform to the approved plan and that the Secretary decides adversely affects the safety, utility, or efficiency of any property on or off the airport that is owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will—

(i) eliminate the adverse effect in a way the Secretary approves; or

(ii) bear all cost of relocating the property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made;

(17) each contract and subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services will be awarded in the same way that a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) or an equivalent qualifications-based requirement prescribed for or by the sponsor;

(18) the airport and each airport record will be available for inspection by the Secretary on reasonable request, and a report of the airport budget will be available to the public at reasonable times and places; and

(19) the airport owner or operator will submit to the Secretary and make available to the public an annual report listing in detail—

(A) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

(B) all services and property provided to other units of government and the amount of compensation received for provision of each such service and property.

(b) WRITTEN ASSURANCES ON USE OF REVENUE.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(c) WRITTEN ASSURANCES ON ACQUIRING LAND.—(1) In this subsection, land is needed for an airport purpose (except a noise compatibility purpose) if—

(A)(i) the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land; and

(ii) revenue from interim uses of the land contributes to the financial self-sufficiency of the airport; and

(B) for land purchased with a grant the owner or operator received not later than December 30, 1987, the Secretary of Transportation or the department, agency, or instrumentality of the Government that made the grant was notified by the owner or operator of the use of the land and did not object to the use and the land is still being used for that purpose.

(2) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received or will receive a grant for acquiring land and—

(A) if the land was or will be acquired for a noise compatibility purpose—

(i) the owner or operator will dispose of the land at fair market value at the earliest practicable time after the land no longer is needed for a noise compatibility purpose;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project; or

(B) if the land was or will be acquired for an airport purpose (except a noise compatibility purpose)—

(i) the owner or operator, when the land no longer is needed for an airport purpose, will dispose of the land at fair market value or make available to the Secretary an amount equal to the Government's proportional share of the fair market value;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested, on application to the Secretary, in another eligible airport development project the Secretary approves under this subchapter or paid to the Secretary for deposit in the Fund if another eligible project does not exist.

(3) Proceeds referred to in paragraph (2)(A)(iii) and (B)(iii) of this subsection and deposited in the Airport and Airway Trust Fund are available as provided in subsection (f) of this section.

(d) ASSURANCES OF CONTINUATION AS PUBLIC-USE AIRPORT.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a privately owned public-use airport only if the Secretary receives appropriate assurances that the airport will continue to function as a public-use airport during the economic life (that must be at least 10 years) of any facility at the airport that was developed with Government financial assistance under this subchapter.

(e) WRITTEN ASSURANCES OF OPPORTUNITIES FOR SMALL BUSINESS CONCERNS.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that the airport owner or operator will take necessary action to ensure, to the maximum extent practicable, that at least 10 percent of all businesses at the airport selling consumer products or providing consumer services to the public are small business concerns (as defined by regulations of the Secretary) owned and controlled by a socially and economically disadvantaged individual (as defined in section 47113(a) of this title).

(2) An airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including any business operated through a management contract or subcontract. The dollar amount of a management contract or subcontract with a disadvantaged business enterprise shall be added to the total participation by disadvantaged business enterprises in airport concessions and to the base from which the airport's percentage goal is calculated. The dollar amount of a management contract or subcontract with a non-disadvantaged business enterprise and the gross revenue of business activities to which the management contract or subcontract pertains may not be added to this base.

(3) Except as provided in paragraph (4) of this subsection, an airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including the purchase from disadvantaged business enterprises of goods and services used in businesses conducted at the airport, but the owner or operator and the businesses conducted at the airport shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises.

(4)(A) In complying with paragraph (1) of this subsection, an airport owner or operator shall include the revenues of car rental firms at the airport in the base from which the percentage goal in paragraph (1) is calculated.

(B) An airport owner or operator may require a car rental firm to meet a requirement under paragraph (1) of this subsection by purchasing or leasing goods or services from a disadvantaged business enterprise. If an owner or operator requires such a purchase or lease, a car rental firm shall be permitted to meet the requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual.

(C) This subsection does not require a car rental firm to change its corporate structure to provide for direct ownership arrangements to meet the requirements of this subsection.

(5) This subsection does not preempt—

(A) a State or local law, regulation, or policy enacted by the governing body of an airport owner or operator; or

(B) the authority of a State or local government or airport owner or operator to adopt or enforce a law, regulation, or policy related to disadvantaged business enterprises.

(6) An airport owner or operator may provide opportunities for a small business concern owned and controlled by a socially and economically disadvantaged individual to participate through direct contractual agreement with that concern.

(7) An air carrier that provides passenger or property-carrying services or another business that conducts aeronautical activities at an airport may not be included in the percentage goal of paragraph (1) of this subsection for participation of small business concerns at the airport.

(8) Not later than April 29, 1993, the Secretary of Transportation shall prescribe regulations to carry out this subsection.

(f) AVAILABILITY OF AMOUNTS.—An amount deposited in the Airport and Airway Trust Fund under—

(1) subsection (c)(2)(A)(iii) of this section is available to the Secretary of Transportation to make a grant for airport development or airport planning under section 47104 of this title;

(2) subsection (c)(2)(B)(iii) of this section is available to the Secretary—

(A) to make a grant for a purpose described in section 47115(b) of this title; and

(B) for use under section 47114(d)(2) of this title at another airport in the State in which the land was disposed of under subsection (c)(2)(B)(ii) of this section; and

(3) subsection (c)(2)(B)(iii) of this section is in addition to an amount made available to

the Secretary under section 48103 of this title and not subject to apportionment under section 47114 of this title.

(g) ENSURING COMPLIANCE.—(1) To ensure compliance with this section, the Secretary of Transportation—

(A) shall prescribe requirements for sponsors that the Secretary considers necessary; and

(B) may make a contract with a public agency.

(2) The Secretary of Transportation may approve an application for a project grant only if the Secretary is satisfied that the requirements prescribed under paragraph (1)(A) of this subsection have been or will be met.

(h) MODIFYING ASSURANCES AND REQUIRING COMPLIANCE WITH ADDITIONAL ASSURANCES.—Before modifying an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

(1) publish notice of the proposed modification in the Federal Register; and

(2) provide an opportunity for comment on the proposal.

(i) RELIEF FROM OBLIGATION TO PROVIDE FREE SPACE.—When a sponsor provides a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility at Government expense, the Secretary may relieve the sponsor from an obligation in a contract made under this chapter, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space to the Government in an airport building, to the extent the Secretary finds that the free space no longer is needed to carry out activities related to air traffic control or navigation.

(j) USE OF REVENUE IN HAWAII.—(1) In this subsection—

(A) ''duty-free merchandise'' and ''duty-free sales enterprise'' have the same meanings given those terms in section 555(b)(8) of the Tariff Act of 1930 (19 U.S.C. 1555(b)(8)).

(B) ''highway'' and ''Federal-aid system'' have the same meanings given those terms in section 101(a) of title 23.

(2) Notwithstanding subsection (b)(1) of this section, Hawaii may use, for a project for construction or reconstruction of a highway on a Federal-aid system that is not more than 10 miles by road from an airport and that will facilitate access to the airport, revenue from the sales at off-airport locations in Hawaii of duty-free merchandise under a contract between Hawaii and a duty-free sales enterprise. However, the revenue resulting during a Hawaiian fiscal year may be used only if the amount of the revenue, plus amounts Hawaii receives in the fiscal year from all other sources for costs Hawaii incurs for operating all airports it operates and for debt service related to capital projects for the airports (including interest and amortization of principal costs), is more than 150 percent of the projected costs for the fiscal year.

(3)(A) Revenue from sales referred to in paragraph (2) of this subsection in a Hawaiian fiscal year that Hawaii may use may not be more than the amount that is greater than 150 percent as determined under paragraph (2).

(B) The maximum amount of revenue Hawaii may use under paragraph (2) of this subsection is $250,000,000.

(4) If a fee imposed or collected for rent, landing, or service from an aircraft operator by an airport operated by Hawaii is increased during the period from May 4, 1990, through December 31, 1994, by more than the percentage change in the Consumer Price Index of All Urban Consumers for Honolulu, Hawaii, that the Secretary of Labor publishes during that period and if revenue derived from the fee increases because the fee increased, the amount under paragraph (3)(B) of this subsection shall be reduced by the amount of the projected revenue increase in the period less the part of the increase attributable to changes in the Index in the period.

(5) Hawaii shall determine costs, revenue, and projected revenue increases referred to in this subsection and shall submit the determinations to the Secretary of Transportation. A determination is approved unless the Secretary disapproves it not later than 30 days after it is submitted.

(6) Hawaii is not eligible for a grant under section 47115 of this title in a fiscal year in which Hawaii uses under paragraph (2) of this subsection revenue from sales referred to in paragraph (2). Hawaii shall repay amounts it receives in a fiscal year under a grant it is not eligible to receive because of this paragraph to the Secretary of Transportation for deposit in the discretionary fund established under section 47115.

(7)(A) This subsection applies only to revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, and to amounts in the Airport Revenue Fund of Hawaii that are attributable to revenue before May 4, 1990, on sales referred to in paragraph (2).

(B) Revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, may be used under paragraph (2) in any Hawaiian fiscal year, including a Hawaiian fiscal year beginning after December 31, 1994.

(k) ANNUAL SUMMARIES OF FINANCIAL REPORTS.—The Secretary shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives an annual summary of the reports submitted to the Secretary under subsection (a)(19) of this section and under section 111(b) of the Federal Aviation Administration Authorization Act of 1994.

(*l*) POLICIES AND PROCEDURES TO ENSURE ENFORCEMENT AGAINST ILLEGAL DIVERSION OF AIRPORT REVENUE.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this subsection, the Secretary of Transportation shall establish policies and procedures that will assure the prompt and effective enforcement of subsections (a)(13) and (b) of this section and grant assurances made under such subsections. Such policies and procedures shall recognize the exemption provision in subsection (b)(2) of

this section and shall respond to the information contained in the reports of the Inspector General of the Department of Transportation on airport revenue diversion and such other relevant information as the Secretary may by law consider.

(2) REVENUE DIVERSION.—Policies and procedures to be established pursuant to paragraph (1) of this subsection shall prohibit, at a minimum, the diversion of airport revenues (except as authorized under subsection (b) of this section) through—

(A) direct payments or indirect payments, other than payments reflecting the value of services and facilities provided to the airport;

(B) use of airport revenues for general economic development, marketing, and promotional activities unrelated to airports or airport systems;

(C) payments in lieu of taxes or other assessments that exceed the value of services provided; or

(D) payments to compensate nonsponsoring governmental bodies for lost tax revenues exceeding stated tax rates.

(3) EFFORTS TO BE SELF-SUSTAINING.—With respect to subsection (a)(13) of this section, policies and procedures to be established pursuant to paragraph (1) of this subsection shall take into account, at a minimum, whether owners and operators of airports, when entering into new or revised agreements or otherwise establishing rates, charges, and fees, have undertaken reasonable efforts to make their particular airports as self-sustaining as possible under the circumstances existing at such airports.

(4) ADMINISTRATIVE SAFEGUARDS.—Policies and procedures to be established pursuant to paragraph (1) shall mandate internal controls, auditing requirements, and increased levels of Department of Transportation personnel sufficient to respond fully and promptly to complaints received regarding possible violations of subsections (a)(13) and (b) of this section and grant assurances made under such subsections and to alert the Secretary to such possible violations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1256; Pub. L. 103–305, title I, §§ 111(a), (c), 112(a), Aug. 23, 1994, 108 Stat. 1573, 1574.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47107(a)	49 App.:2202(a)(6).	Sept. 3, 1982, Pub. L. 97–248, §§ 503(a)(6), 505(b)(2), 509(b)(1)(E), 511(a)(1)(B), (C), (2), (5)–(10), (b), 96 Stat. 673, 677, 683, 686, 687.
	49 App.:2208(b) (1)(E) (related to 49 App.:2210(a) (1)–(11), (15), (16)).	
	49 App.:2210(a) (1)(A).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(1)(A), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, § 109(a), 101 Stat. 1499.
	49 App.:2210(a) (1)(B), (C), (2).	
	49 App.:2210(a)(3).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(3), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, § 109(b), 101 Stat. 1499.
	49 App.:2210(a)(4).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(4), 96 Stat. 686; restated Dec. 30, 1987, Pub. L. 100–223, § 109(c), 101 Stat. 1499.
	49 App.:2210(a) (5)–(10).	
	49 App.:2210(a)(11).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(11), 96 Stat. 687; Oct. 31, 1992, Pub. L. 102–581, § 113(a), 106 Stat. 4881.
	49 App.:2210(a)(15).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(a)(15); added Dec. 30, 1987, Pub. L. 100–223, § 109(f), 101 Stat. 1500.
	49 App.:2210(a)(16).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(a)(16); added Dec. 30, 1987, Pub. L. 100–223, § 109(g), 101 Stat. 1501.
47107(b)(1), (2).	49 App.:2208(b) (1)(E) (related to 49 App.:2210(a) (12)).	
	49 App.:2210(a)(12).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(12), 96 Stat. 687; restated Dec. 30, 1987, Pub. L. 100–223, § 109(d), 101 Stat. 1499.
47107(b)(3) ..	49 App.:2210(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(d); added Dec. 30, 1987, Pub. L. 100–223, § 109(i), 101 Stat. 1501.
47107(c)(1), (2).	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2208(b) (1)(E) (related to 49 App.:2210(a) (13), (14)).	
	49 App.:2210(a)(13).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(13), 96 Stat. 688; restated Dec. 30, 1987, Pub. L. 100–223, § 109(e), 101 Stat. 1499.
	49 App.:2210(a)(14).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(14), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100–223, § 109(e), 101 Stat. 1499; restated Dec. 15, 1989, Pub. L. 101–236, § 4, 103 Stat. 2061.
47107(c)(3) ..	(no source).	
47107(d)	49 App.:2204(b)(2).	
	49 App.:2208(b) (1)(E) (related to 49 App.:2204(b) (2)).	
47107(e)	49 App.:2208(b) (1)(E) (related to 49 App.:2210(a) (17)).	
	49 App.:2210(a)(17).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(a)(17); added Dec. 30, 1987, Pub. L. 100–223, § 109(h), 101 Stat. 1501; Oct. 31, 1992, Pub. L. 102–581, § 117(a), 106 Stat. 4882.
	49 App.:2210(h).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(h); added Oct. 31, 1992, Pub. L. 102–581, § 117(b), 106 Stat. 4882.
	49 App.:2210 (note).	Oct. 31, 1992, Pub. L. 102–581, § 117(d), 106 Stat. 4883.
47107(f)	49 App.:2210(e).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(e); added Dec. 30, 1987, Pub. L. 100–223, § 109(j), 101 Stat. 1501.
47107(g)(1) ..	49 App.:2210(b) (1st, 2d sentences).	
47107(g)(2) ..	49 App.:2208(b) (1)(E) (related to 49 App.:2210(b)).	
47107(h)	49 App.:2210(f).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(f); added Dec. 30, 1987, Pub. L. 100–223, § 109(k), 101 Stat. 1502.
47107(i)	49 App.:2210(b) (last sentence).	
47107(j)(1) ...	49 App.:2210(g) (4)(B), (D).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(g); added May 4, 1990, Pub. L. 101–281, § 2, 104 Stat. 164.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47107(j)(2) ...	49 App.:2210(g)(1), (2)(B), (4)(A), (C).	
47107(j)(3) ...	49 App.:2210(g)(2)(C), (D).	
47107(j)(4) ...	49 App.:2210(g)(2)(E).	
47107(j)(5) ...	49 App.:2210(g)(2)(F).	
47107(j)(6) ...	49 App.:2210(g)(2)(G).	
47107(j)(7)(A).	49 App.:2210(g)(2)(A).	
47107(j)(7)(B).	49 App.:2210(g)(3).	

In subsection (a), before clause (1), the words ''may approve a project grant application under this subchapter for an airport development project only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)) and the words ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall'' in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (1), the words ''to which the project relates'' and ''fair and'' are omitted as surplus. In clause (2), before subclause (A), the words ''including the requirement that'' are omitted as unnecessary because of the restatement. The words ''air carriers making similar use of the airport'' are substituted for ''each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) . . . all such air carriers which make similar use of such airport'' to eliminate unnecessary words. The words ''and which utilize similar facilities'' are omitted because of the definition of ''airport'' in section 47102 of the revised title. The words ''nondiscriminatory and'' and ''rates, fees, rentals, and other'' are omitted as surplus. In subclause (B), before subclause (i), the words ''except for differences based on'' are substituted for ''subject to'' for clarity. In clause (3), the words ''airport operator'' are substituted for ''airport'' for clarity and consistency in this chapter. In clause (4), before subclause (A), the words ''a right given to only one fixed-base operator to provide services at an airport'' are substituted for ''the providing of services at an airport by a single fixed-based operator'' for clarity. In subclause (B), the words ''the airport operator or owner'' are substituted for ''such airport'' for clarity and consistency in this subchapter. Clause (5) is substituted for 49 App.:2210(a)(1)(B) for consistency and to eliminate unnecessary words. In clause (6), the words ''allowed by the airport operator'' are substituted for ''authorized by the airport or permitted by the airport'' for clarity and consistency in this chapter and to eliminate unnecessary words. In clause (9), the words ''operations at'' are added for clarity. The words ''adequately'', ''removing, lowering, relocating, marking, or lighting or otherwise'', and ''the establishment or creation of'' are omitted as surplus. In clause (10), the word ''near'' is substituted for ''in the immediate vicinity of'', and the word ''uses'' is substituted for ''activities and purposes'', to eliminate unnecessary words. The words ''including landing and takeoff of aircraft'' are omitted as surplus. In clause (12), the words ''property interests of the sponsor in land or water areas or buildings'' are substituted for ''any areas of land or water, or estate therein, or rights in buildings of the sponsor'' for consistency in the revised title and to eliminate unnecessary words. The words ''necessary or'' are omitted as surplus. The words ''for, and that will be used for, constructing . . . facilities for carrying out activities related to air traffic control or navigation'' are substituted for ''for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control . . . for construction . . . of space or facilities for such purposes'' to eliminate unnecessary words. In clause (13), before subclause (A), the words ''schedule of charges'' are substituted for ''fee and rental structure'' for clarity and consistency in this chapter. In subclause (A), the word ''particular'' is omitted as surplus. The word ''including'' is substituted for ''taking into account such factors as'' to eliminate unnecessary words. In subclause (B), the words ''fees, rates, and'' are omitted as surplus. The words ''airport development or airport planning'' are omitted because of the definition of ''project'' in section 47102 of the revised title. In clause (16), before subclause (A), the words ''maintain . . . current'' are substituted for ''keep up to date at all times'' to eliminate unnecessary words. In subclause (B), the words ''be submitted to, and'' and ''amendment'' are omitted as surplus. In subclauses (C) and (D), the words ''changes or'' and ''change or'', respectively, are omitted as surplus. In subclause (D)(ii), the words ''was made'' are added for clarity. In clause (17), the words ''with respect to the project'' are omitted as surplus. In clause (18), the words ''duly authorized agent of'' are omitted because of 49:322(b).

In subsection (b)(1), before clause (A), the words ''may approve a project grant application under this subchapter for an airport development project only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(12)) and ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall'' in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (C) the word ''actual'' is omitted as surplus.

In subsection (b)(2), the words ''Paragraph (1) of this subsection does not apply'' are substituted for ''except that . . . then this limitation on the use of all other revenues generated by the airport . . . shall not apply'' to eliminate unnecessary words. The word ''law'' is substituted for ''provisions . . . in governing statutes'' for consistency in the revised title and to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words ''considered to be'' are omitted as surplus. In clause (B), the words ''department, agency, or instrumentality of the Government'' are substituted for ''Federal agency'' for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), before clause (A), the words ''may approve an application under this subchapter for an airport development project grant only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)) and ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter'' in 49 App.:2210(a) for clarity and to eliminate unnecessary words. The words ''has received or will receive'' are substituted for ''before, on, or after December 30, 1987'' and ''before, on, or after December 31, 1987'' because of the restatement. In clauses (A)(ii) and (B)(ii), the words ''or right'' and ''only'' are omitted as surplus. In clause (A)(iii), the words ''at the discretion of the Secretary'' in 49 App.:2210(a)(13)(C) are omitted as surplus. In clause (B)(iii), the words ''under this subchapter'' are substituted for ''at that airport or within the national airport system'' for clarity and to eliminate unnecessary words.

Subsection (c)(3) is added for clarity.

In subsection (d), the words ''may approve an application under this subchapter for an airport development project grant . . . only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2204(b)(2)) and ''No obligation shall be incurred by the Secretary for airport development . . . unless'' in 49 App.:2204(b) for clarity and to eliminate unnecessary words.

In subsection (e)(1), the words ''may approve a project grant application under this subchapter for an airport development project only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(17)) and ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall'' for clarity and to eliminate unnecessary words. The words ''food, beverages, printed materials, or other'' and ''ground trans-

portation, baggage carts, automobile rentals, or other'' are omitted as surplus.

In subsection (e)(2)–(5), the words ''disadvantaged business enterprise'' are substituted for ''DBE'' for clarity.

In subsection (e)(4), the words ''(as defined by the Secretary by regulation)'' and ''(as defined under section 2204(d)(2)(B) of this title)'' are omitted as unnecessary because of paragraph (1) of this subsection.

In subsection (f)(2)(A), the words ''at the discretion of the Secretary'' are omitted as surplus. The words ''at primary airports and reliever airports'' are omitted as surplus because 49 App.:2206(c)(2), restated in section 47115(c) of the revised title, involves only primary and reliever airports.

In subsection (g)(1)(A), the words ''consistent with the terms of this chapter'' are omitted as surplus.

In subsection (g)(1)(B), the words ''Among other steps to insure such compliance'' and ''on behalf of the United States'' are omitted as surplus.

In subsection (g)(2), the words ''by or . . . the authority of'' are omitted as surplus.

In subsection (h), before clause (1), the words ''proposes to'' are omitted as surplus. The word ''subchapter'' is substituted for ''Act'' in section 511(f) of the Airport and Airway Improvement Act of 1982, as added by section 109(k) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1502), to correct a mistake.

In subsection (i), the words ''a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility'' are substituted for ''any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon'' for consistency in this section.

In subsection (j)(2), the words ''the limitation on the use of revenues generated by airports contained in'', ''located'', ''of funds'', and ''(including revenues generated by such airports from other sources, unrestricted cash on hand, and Federal funds made available under this chapter for expenditure at such airports)'' are omitted as surplus.

In subsection (j)(3)(A), the words ''amount that is greater than 150 percent as determined'' are substituted for ''amount of the excess determined'' for clarity.

In subsection (j)(3)(B), the words ''in the aggregate'' are omitted as surplus.

In subsection (j)(4), the word ''imposed'' is substituted for ''levied'' for consistency in the revised title and with other titles of the Code. The words ''for the use of airport facilities'' and ''a percentage which is'' are omitted as surplus. The words ''Secretary of Labor'' are substituted for ''Bureau of Labor Statistics of the Department of Labor'' because of 29:551 and 557.

In subsection (j)(5), the words ''from fee increases'' and ''for approval'' are omitted as surplus.

REFERENCES IN TEXT

The Federal Airport Act, referred to in subsecs. (a)(13)(B) and (i), is act May 13, 1946, ch. 251, 60 Stat. 170, as amended, which was classified to chapter 14 (§ 1101 et seq.) of former Title 49, Transportation, prior to repeal by Pub. L. 91–258, title I, § 52(a), May 21, 1970, 84 Stat. 235.

The Airport and Airway Development Act of 1970, referred to in subsecs. (a)(13)(B) and (i), is title I of Pub. L. 91–258, May 21, 1970, 84 Stat. 219, as amended, which was classified principally to chapter 25 (§ 1701 et seq.) of former Title 49, Transportation. Sections 1 through 30 of title I of Pub. L. 91–258, which enacted sections 1701 to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49, and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91–258 were repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act tot he Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(17), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title IX of the Act is classified generally to subchapter VI (§ 541 et seq.) of chapter 10 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

Section 111(b) of the Federal Aviation Administration Authorization Act of 1994, referred to in subsec. (k), is section 111(b) of Pub. L. 103–305, which is set out below.

The date of the enactment of this subsection, referred to in subsec. (*l*)(1), is the date of enactment of Pub. L. 103–305, which was approved Aug. 23, 1994.

AMENDMENTS

1994—Subsec. (a)(15). Pub. L. 103–305, § 111(a)(1), inserted before semicolon at end ''and make such reports available to the public''.

Subsec. (a)(19). Pub. L. 103–305, § 111(a)(2)–(4), added par. (19).

Subsec. (k). Pub. L. 103–305, § 111(c), added subsec. (k).

Subsec. (*l*). Pub. L. 103–305, § 112(a), added subsec. (*l*).

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives changed to Committee on Transportation and Infrastructure of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

FORMAT FOR REPORTING

Section 111(b) of Pub. L. 103–305 provided that: ''Within 180 days after the date of the enactment of this Act [Aug. 23, 1994], the Secretary [of Transportation] shall prescribe a uniform simplified format for reporting that is applicable to airports. Such format shall be designed to enable the public to understand readily how funds are collected and spent at airports, and to provide sufficient information relating to total revenues, operating expenditures, capital expenditures, debt service payments, contributions to restricted funds, accounts, or reserves required by financing agreements or covenants or airport lease or use agreements or covenants. Such format shall require each commercial service airport to report the amount of any revenue surplus, the amount of concession-generated revenue, and other information as required by the Secretary.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 47101, 47111, 47119 of this title.

§ 47108. Project grant agreements

(a) OFFER AND ACCEPTANCE.—On approving a project grant application under this subchapter, the Secretary of Transportation shall offer the sponsor a grant to pay the United States Government's share of the project costs allowable under section 47110 of this title. The Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and regulations prescribed under this subchapter. An offer shall state the obligations to be assumed by the sponsor and the maximum amount the Government will pay for the project from the amounts authorized under chapter 481 of this title (except sections 48102(e), 48106, 48107, and 48110). At the request of the sponsor, an offer of a grant for a project that will not be completed in one fiscal year shall provide for the obligation of amounts apportioned or to be apportioned to a sponsor under section 47114(c) of this title for the fiscal years necessary to pay

the Government's share of the cost of the project. An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

(b) INCREASING GOVERNMENT'S SHARE UNDER THIS SUBCHAPTER OR CHAPTER 475.—(1) When an offer has been accepted in writing, the amount stated in the offer as the maximum amount the Government will pay may be increased only as provided in paragraphs (2) and (3) of this subsection.

(2)(A) For a project receiving assistance under a grant approved under the Airport and Airway Improvement Act of 1982 before October 1, 1987, the amount may be increased by not more than—

(i) 10 percent for an airport development project, except a project for acquiring an interest in land; and

(ii) 50 percent of the total increase in allowable project costs attributable to acquiring an interest in land, based on current creditable appraisals.

(B) An increase under subparagraph (A) of this paragraph may be paid only from amounts the Government recovers from other grants made under this subchapter.

(3) For a project receiving assistance under a grant approved under the Act, this subchapter, or chapter 475 of this title after September 30, 1987, the amount may be increased—

(A) for an airport development project, by not more than 15 percent; and

(B) for a grant after September 30, 1992, to acquire an interest in land for an airport (except a primary airport), by not more than the greater of the following, based on current creditable appraisals or a court award in a condemnation proceeding:

(i) 15 percent; or

(ii) 25 percent of the total increase in allowable project costs attributable to acquiring an interest in land.

(c) INCREASING GOVERNMENT'S SHARE UNDER AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970.—For a project receiving assistance under a grant made under the Airport and Airway Development Act of 1970, the maximum amount the Government will pay may be increased by not more than 10 percent. An increase under this subsection may be paid only from amounts the Government recovers from other grants made under the Act.

(d) CHANGING WORKSCOPE.—With the consent of the sponsor, the Secretary may amend a grant agreement made under this subchapter to change the workscope of a project financed under the grant if the amendment does not result in an increase in the maximum amount the Government may pay under subsection (b) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1262.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47108(a)	49 App.:2211(a).	Sept. 3, 1982, Pub. L. 97–248, §512(a), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100–223, §§106(b)(4), 110(c), 101 Stat. 1498, 1502.
47108(b)	49 App.:2211(b).	Sept. 3, 1982, Pub. L. 97–248, §512(b), 96 Stat. 688; restated Dec. 30, 1987, Pub. L. 100–223, §110(a), 101 Stat. 1502; Oct. 31, 1992, Pub. L. 102–581, §109, 106 Stat. 4879.
47108(c)	49 App.:2211(c).	
47108(d)	49 App.:2211(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §512(d); added Dec. 30, 1987, Pub. L. 100–223, §110(b), 101 Stat. 1502.

In subsection (a), the words ''on behalf of the United States'' are omitted as surplus. The words ''or sponsors'' are omitted because of 1:1. The words ''of the application'' are omitted as surplus. The words ''under section 47110 of this title'' are added for clarity. The words ''and conditions'' are omitted as being included in ''terms''. The words ''for the project'' are added for clarity. The words ''an offer of a grant for a project'' are substituted for ''In any case where the Secretary approves a project grant application for a project . . . the offer'' to eliminate unnecessary words. The words ''(including future fiscal years)'' are omitted as surplus. The words ''An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor'' are substituted for ''If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor'' to eliminate unnecessary words. The words ''which have been or may be incurred'' are omitted as surplus.

In subsection (b)(1), the words ''by a sponsor'' are omitted as surplus. The words ''amount the Government will pay'' are substituted for ''obligation of the United States'' for clarity and consistency in this section.

In subsection (b)(2), the text of 49 App.:2211(b)(2) (last sentence) is restated to apply only to 49 App.:2211(b)(2) (1st sentence) to carry out the probable intent of Congress.

In subsection (b)(3)(B), the words ''for fiscal year 1993 and thereafter'' are omitted as unnecessary.

In subsection (c), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''a project receiving assistance under'' are added for consistency.

In subsection (d), the word ''sponsor'' is substituted for ''grant recipient'' for clarity. The words ''amount the Government may pay'' are substituted for ''obligation of the United States authorized'' for clarity and consistency in this section.

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (b)(2)(A), (3), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, as amended, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

The Airport and Airway Development Act of 1970, referred to in subsec. (c), is title I of Pub. L. 91–258, May 21, 1970, 84 Stat. 219, as amended, which was classified principally to chapter 25 (§1701 et seq.) of former Title 49. Sections 1 through 30 of title I of Pub. L. 91–258, which enacted sections 1701 to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49, and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91–258 were repealed by Pub. L.

103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47104, 47110 of this title.

§ 47109. United States Government's share of project costs

(a) GENERAL.—Except as provided in subsection (b) of this section, the United States Government's share of allowable project costs is—

(1) 75 percent for a project at a primary airport having at least .25 percent of the total number of passenger boardings each year at all commercial service airports; and

(2) 90 percent for a project at any other airport.

(b) INCREASED GOVERNMENT SHARE.—If, under subsection (a) of this section, the Government's share of allowable costs of a project in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970, the Government's share under subsection (a) of this section shall be increased by the lesser of—

(1) 25 percent;

(2) one-half of the percentage that the area of unappropriated and unreserved public lands and nontaxable Indian lands in the State is of the total area of the State; or

(3) the percentage necessary to increase the Government's share to the percentage that applied on June 30, 1975, under section 17(b) of the Act.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1264; Pub. L. 103–305, title I, § 114, Aug. 23, 1994, 108 Stat. 1579.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47109(a)	49 App.:2209(a), (b).	Sept. 3, 1982, Pub. L. 97–248, § 510, 96 Stat. 685.
47109(b)	49 App.:2209(c).	
47109(c)	49 App.:2212(b)(5).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(5), 96 Stat. 691; Dec. 30, 1987, Pub. L. 100–223, § 111(a)(2), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, § 110(b), 106 Stat. 4880.

In subsection (a), before clause (1), the words "Except as provided in subsections (b) and (c) of this section" are substituted for "Except as otherwise provided in this chapter" because subsections (b) and (c) restate the only parts of the chapter that provide exceptions to the general rule stated in subsection (a). In clauses (1) and (2), the words "for a project" are substituted for "payable on account of any project contained in an approved project grant application submitted in accordance with this chapter" in 49 App.:2209(a) and "payable on account of any project contained in an approved project grant application" in 49 App.:2209(b) for consistency in this chapter and to eliminate unnecessary words. A project cost is allowable only if it is incurred under a grant agreement made under the chapter, and a grant agreement may be made only if the project grant application is approved. In clause (1), the words "number of passenger boardings" are substituted for "enplaning . . . of the . . . passengers enplaned" because of the definition of "passenger boardings" in section 47102 of the revised title.

In subsection (b), the words "If, under subsection (a) of this section, the Government's share of allowable costs . . . is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970" and "(3) the percentage necessary to increase the Government's share to the percentage that applied on June 30, 1975, under section 17(b) of the Act" are substituted for 49 App.:2209(c) (last sentence) for clarity. The words "of the total of all lands therein" are omitted as surplus.

In subsection (c), the words "Notwithstanding subsections (a) and (b) of this section" are substituted for "Notwithstanding any other provision of this chapter" because subsections (a) and (b) are the only other parts of the chapter that specify the United States Government's share of allowable project costs.

REFERENCES IN TEXT

Section 17(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (b), is section 17(b) of Pub. L. 91–258, which was classified to section 1717(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–305, § 114(1), substituted "subsection (b)" for "subsections (b) and (c)".

Subsec. (c). Pub. L. 103–305, § 114(2), struck out subsec. (c) which read as follows: "(c) LIMITATION.—Notwithstanding subsections (a) and (b) of this section, the Government's share of project costs allowable under section 47110(d) of this title may not be more than 75 percent, except that the Government's share shall be 85 percent for a project at a commercial service airport that does not have more than .05 percent of the total annual passenger boardings in the United States."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47118, 47504, 47505 of this title.

§ 47110. Allowable project costs

(a) GENERAL AUTHORITY.—Except as provided in section 47111 of this title, the United States Government may pay or be obligated to pay, from amounts appropriated to carry out this subchapter, a cost incurred in carrying out a project under this subchapter only if the Secretary of Transportation decides the cost is allowable.

(b) ALLOWABLE COST STANDARDS.—A project cost is allowable—

(1) if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter, including any cost a sponsor incurs related to an audit the Secretary requires under section 47121(b) or (d) of this title;

(2)(A) if the cost is incurred after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed;

(B) if the cost is incurred after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatability pro-

gram (including project formulation costs) and is consistent with all applicable statutory and administrative requirements; or

(C) if the Government's share is paid only with amounts apportioned under section 47114(c)(1)(A) and (2) of this title and if the cost is incurred—

(i) during the fiscal year ending September 30, 1994;

(ii) before a grant agreement is executed for the project but according to an airport layout plan the Secretary approves before the cost is incurred and all applicable statutory and administrative requirements that would apply to the project if the agreement had been executed; and

(iii) for work related to a project for which a grant agreement previously was executed during the fiscal year ending September 30, 1994;

(3) to the extent the cost is reasonable in amount;

(4) if the cost is not incurred in a project for airport development or airport planning for which other Government assistance has been granted; and

(5) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title).

(c) CERTAIN PRIOR COSTS AS ALLOWABLE COSTS.—The Secretary may decide that a project cost under subsection (b)(2)(A) of this section incurred after May 13, 1946, and before the date the grant agreement is executed is allowable if it is—

(1) necessarily incurred in formulating an airport development project, including costs incurred for field surveys, plans and specifications, property interests in land or airspace, and administration or other incidental items that would not have been incurred except for the project; or

(2) necessarily and directly incurred in developing the work scope of an airport planning project.

(d) TERMINAL DEVELOPMENT COSTS.—(1) The Secretary may decide that the cost of terminal development (including multi-modal terminal development) in a nonrevenue-producing public-use area of a commercial service airport is allowable for an airport development project at the airport—

(A) if the sponsor certifies that the airport, on the date the grant application is submitted to the Secretary, has—

(i) all the safety equipment required for certification of the airport under section 44706 of this title;

(ii) all the security equipment required by regulation; and

(iii) provided for access, to the area of the airport for passengers for boarding or exiting aircraft, to those passengers boarding or exiting aircraft, except air carrier aircraft;

(B) if the cost is directly related to moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; and

(C) under terms necessary to protect the interests of the Government.

(2) In making a decision under paragraph (1) of this subsection, the Secretary may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, reconstruction, repair, and improvement in a nonrevenue-producing parking lot if—

(A) the airport does not have more than .05 percent of the total annual passenger boardings in the United States; and

(B) the sponsor certifies that any needed airport development project affecting safety, security, or capacity will not be deferred because of the Secretary's approval.

(e) LETTERS OF INTENT.—(1) The Secretary may issue a letter of intent to the sponsor stating an intention to obligate from future budget authority an amount, not more than the Government's share of allowable project costs, for an airport development project (including costs of formulating the project) at a primary or reliever airport. The letter shall establish a schedule under which the Secretary will reimburse the sponsor for the Government's share of allowable project costs, as amounts become available, if the sponsor, after the Secretary issues the letter, carries out the project without receiving amounts under this subchapter.

(2) Paragraph (1) of this subsection applies to a project—

(A) about which the sponsor notifies the Secretary, before the project begins, of the sponsor's intent to carry out the project;

(B) that will comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter; and

(C) the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(d) of this title.

(3) A letter of intent issued under paragraph (1) of this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation laws.

(4) The total estimated amount of future Government obligations covered by all outstanding letters of intent under paragraph (1) of this subsection may not be more than the amount authorized to carry out section 48103 of this title, less an amount reasonably estimated by the Secretary to be needed for grants under section 48103 that are not covered by a letter.

(5) A letter of intent issued under paragraph (1) of this subsection may not condition the obligation of amounts on the imposition of a passenger facility fee.

(6) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(f) NONALLOWABLE COSTS.—Except as provided in subsection (d) of this section and section 47118(f) of this title, a cost is not an allowable airport development project cost if it is for—

(1) constructing a public parking facility for passenger automobiles;

(2) constructing, altering, or repairing part of an airport building, except to the extent the building will be used for facilities or activities directly related to the safety of individuals at the airport;

(3) decorative landscaping; or

(4) providing or installing sculpture or art works.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1264; Pub. L. 103–305, title I, § 115, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, § 6(64), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47110(a)	49 App.:2212(a) (1st, last sentences).	Sept. 3, 1982, Pub. L. 97–248, § 513(a), 96 Stat. 689; Aug. 4, 1989, Pub. L. 101–71, § 3, 103 Stat. 181.
47110(b)	49 App.:2212(a) (2d sentence cls. (1), (2) (words before period), (3), (4)).	
47110(c)	49 App.:2212(a) (2d sentence cl. (2) (words after period)).	
47110(d)	49 App.:2212(b)(1), (6).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(1), (6), 96 Stat. 691; Oct. 31, 1992, Pub. L. 102–581, § 110(a), 106 Stat. 4879.
47110(e)	49 App.:2212(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 513(d); added Dec. 30, 1987, Pub. L. 100–223, § 111(c), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, § 111, 106 Stat. 4880.
47110(f)	49 App.:2212(c).	Sept. 3, 1982, Pub. L. 97–248, § 513(c), 96 Stat. 691; Dec. 30, 1987, Pub. L. 100–223, § 111(b), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, § 107(c)(2), 106 Stat. 4879.

In subsection (a), the words ''for airport development or airport planning'' are omitted because of the definition of ''project'' in section 47102 of the revised title. The text of 49 App.:2212(a) (last sentence) is omitted as surplus because of 49:322(a).

In subsection (b)(1), the word ''approved'' is omitted as surplus because a project that was not approved could not be carried out in compliance with a grant agreement. The words ''in compliance with the grant agreement made for the project under this subchapter'' are substituted for ''in conformity with the terms and conditions of the grant agreement entered into in connection with the project'' to eliminate unnecessary words. The word ''sponsor'' is substituted for ''recipient'' for clarity.

In subsection (b)(2)(A), the words ''with respect to the project'' are omitted as unnecessary because ''the grant agreement'' means ''the grant agreement made for the project'' referred to in clause (1) of this subsection. The words ''under the project'' are omitted as surplus.

Subsection (b)(3) is substituted for ''in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable'' to eliminate unnecessary words.

Subsection (b)(5) is substituted for ''except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement except to the extent authorized by section 2211(b) of this Appendix'' for consistency in this section.

In subsection (c), before clause (1), the words ''The Secretary may decide that a project cost . . . is allowable'' are substituted for ''However, the allowable costs of a project . . . may include . . . and the allowable costs of a project . . . may include'' for clarity and consistency in the revised title. The words ''incurred after May 13, 1946, and before the date the grant agreement is executed'' are substituted for ''which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946'' and ''which were incurred subsequent to May 13, 1946'' to eliminate unnecessary words. In clause (1), the words ''preparation of'', ''acquisition of'', ''by the sponsor specifically in connection with the accomplishment of the project for airport development'' are omitted as surplus. The words ''property interests in land or airspace'' are substituted for ''land or interests therein or easements through or other interests in airspace'' to eliminate unnecessary words.

In subsection (d)(1), before clause (A), the words ''The Secretary may decide that the cost . . . is allowable'' are substituted for ''the Secretary may approve, as allowable project costs'' and ''The Secretary shall approve project costs allowable under paragraph (1) of this subsection'' for clarity and consistency in this section. In clause (B), the words ''the boundaries of'' are omitted as surplus. In clause (C), the words ''and conditions'' are omitted as being included in ''terms''.

In subsection (d)(2), the words ''In making a decision under paragraph (1) of this subsection, the Secretary may approve as allowable costs'' are substituted for ''In the case of a commercial service airport . . . the Secretary may approve, under the preceding sentence as allowable project costs'' for consistency in this subsection.

In subsection (e)(1), the word ''sponsor'' is substituted for ''applicant'' for consistency. The words ''stipulated as'' and ''Subject to the provisions of this paragraph'' are omitted as surplus. The word ''reimburse'' is substituted for ''make payments under paragraph (2) of this subsection'' and ''pay'' for clarity. The words ''payable on account of such project in accordance with such letter of intent'' are omitted as surplus.

In subsection (e)(2), before clause (A), the text of 49 App.:2212(d)(1)(C) (last sentence) is omitted as obsolete.

In subsection (e)(3), the words ''A letter of intent issued'' are substituted for ''action'' for clarity. The word ''deemed'' before ''an obligation'' is omitted as surplus.

In subsection (f)(2), the words ''of a hangar or'' are omitted as being included in ''airport building''.

PUB. L. 103–429

The source credits for all of subsection (b) are included for clarity though only subsection (b)(2) is affected by the amendment. The source credits for 49:47110(c) are included to correct a mistake on p. 405 of H. R. Rept. 103–180 (103d Cong., 1st Sess., July 15, 1993).

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47110(b)	49 App.:2212(a) (2d sentence cls. (1), (2)(A) (words before period), (B), (3), (4)).	Sept. 3, 1982, Pub. L. 97–248, § 513(a) (2d sentence), as amended May 26, 1994, Pub. L. 103–260, § 106, 108 Stat. 699.
47110(c)	49 App.:2212(a) (2d sentence cl. (2)(A) (words after period).	

In subsection (b)(2)(C)(ii), the words ''before the cost is incurred'' are added for clarity.

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103–429 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''if the cost is incurred—

''(A) after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed; or

''(B) after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatibility program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;''.

Subsec. (e)(6). Pub. L. 103–305 added par. (6).

LETTERS OF INTENT; DURATION OF AUTHORITY AND APPROVAL BY CONGRESS

Pub. L. 102–388, title III, §320, Oct. 6, 1992, 106 Stat. 1546, provided that: ''The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended [see subsec. (e) of this section], to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act [substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by first section thereof as this subchapter]: *Provided*, That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives.'' Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–143, title III, §320, Oct. 28, 1991, 105 Stat. 942.

Pub. L. 101–516, title III, §320, Nov. 5, 1990, 104 Stat. 2181.

Pub. L. 101–164 title III, §326, Nov. 21, 1989, 103 Stat. 1096.

Pub. L. 100–457, title III, §334, Sept. 30, 1988, 102 Stat. 2153.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40117, 47108, 47119 of this title.

§47111. Payments under project grant agreements

(a) GENERAL AUTHORITY.—After making a project grant agreement under this subchapter and consulting with the sponsor, the Secretary of Transportation may decide when and in what amounts payments under the agreement will be made. Payments totaling not more than 90 percent of the United States Government's share of the project's estimated allowable costs may be made before the project is completed if the sponsor certifies to the Secretary that the total amount expended from the advance payments at any time will not be more than the cost of the airport development work completed on the project at that time.

(b) RECOVERING PAYMENTS.—If the Secretary determines that the total amount of payments made under a grant agreement under this subchapter is more than the Government's share of the total allowable project costs, the Government may recover the excess amount. If the Secretary finds that a project for which an advance payment was made has not been completed within a reasonable time, the Government may recover any part of the advance payment for which the Government received no benefit.

(c) PAYMENT DEPOSITS.—A payment under a project grant agreement under this subchapter may be made only to an official or depository designated by the sponsor and authorized by law to receive public money.

(d) WITHHOLDING PAYMENTS.—(1) The Secretary may withhold a payment under a grant agreement under this subchapter for more than 180 days after the payment is due only if the Secretary—

(A) notifies the sponsor and provides an opportunity for a hearing; and

(B) finds that the sponsor has violated the agreement.

(2) The 180-day period may be extended by—

(A) agreement of the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding a payment may apply for review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The petition must be filed not later than 60 days after the order is served on the petitioner.

(e) ACTION ON GRANT ASSURANCES CONCERNING AIRPORT REVENUES.—If, after notice and opportunity for a hearing, the Secretary finds a violation of section 47107(b) of this title, as further defined by the Secretary under section 47107(*l*) of this title, or a violation of an assurance made under section 47107(b) of this title, and the Secretary has provided an opportunity for the airport sponsor to take corrective action to cure such violation, and such corrective action has not been taken within the period of time set by the Secretary, the Secretary shall withhold approval of any new grant application for funds under this chapter, or any proposed modification to an existing grant that would increase the amount of funds made available under this chapter to the airport sponsor, and withhold approval of any new application to impose a fee under section 40117 of this title. Such applications may thereafter be approved only upon a finding by the Secretary that such corrective action as the Secretary requires has been taken to address the violation and that the violation no longer exists.

(f) JUDICIAL ENFORCEMENT.—For any violation of this chapter or any grant assurance made under this chapter, the Secretary may apply to the district court of the United States for any district in which the violation occurred for enforcement. Such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining any person from further violation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1266; Pub. L. 103–305, title I, §112(b), Aug. 23, 1994, 108 Stat. 1575.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47111(a)	49 App.:2213 (1st, 2d sentences).	Sept. 3, 1982, Pub. L. 97–248, §514, 96 Stat. 691.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47111(b)	49 App.:2213 (3d, 4th sentences).	
47111(c)	49 App.:2213 (last sentence).	
47111(d)	49 App.:2218(b) (related to payment).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 519(b) (related to payment); added Dec. 30, 1987, Pub. L. 100–223, § 112(2), 101 Stat. 1504.

In subsection (a), the words ''the terms of'' are omitted as surplus. The words ''totaling'' and ''total'' are substituted for ''in an aggregate amount'' and ''aggregate'' for consistency in the revised title. The words ''from time to time'' are omitted as surplus. The words ''before the project is completed'' are substituted for ''in advance of accomplishment of the airport project to which the payments relate'' for consistency in this chapter and to eliminate unnecessary words.

In subsection (b), the words ''at any time'' are omitted as surplus. The words ''project for which an advance payment was made has not been completed within a reasonable time'' are substituted for ''any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed'' for clarity, for consistency in this chapter, and to eliminate unnecessary words.

In subsection (d)(1) and (2), the word ''sponsor'' is substituted for ''recipient'' and ''grant recipient'' for clarity.

In subsection (d)(2)(A), the word ''mutual'' is omitted as surplus.

In subsection (d)(3), the words ''adversely affected'' are substituted for ''aggrieved'' for consistency in the revised title and with other titles of the United States Code. The words ''the date on which'' are omitted as surplus.

AMENDMENTS

1994—Subsecs. (e), (f). Pub. L. 103–305 added subsecs. (e) and (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47110 of this title.

§ 47112. Carrying out airport development projects

(a) CONSTRUCTION WORK.—The Secretary of Transportation may inspect and approve construction work for an airport development project carried out under a grant agreement under this subchapter. The construction work must be carried out in compliance with regulations the Secretary prescribes. The regulations shall require the sponsor to make necessary cost and progress reports on the project. The regulations may amend or modify a contract related to the project only if the contract was made with actual notice of the regulations.

(b) PREVAILING WAGES.—A contract for more than $2,000 involving labor for an airport development project carried out under a grant agreement under this subchapter must require contractors to pay labor minimum wage rates as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5). The minimum rates must be included in the bids for the work and in the invitation for those bids.

(c) VETERANS' PREFERENCE.—(1) In this subsection—

(A) ''disabled veteran'' has the same meaning given that term in section 2108 of title 5.

(B) ''Vietnam-era veteran'' means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces for more than 180 consecutive days, any part of which occurred after August 4, 1964, and before May 8, 1975, and who was separated from the armed forces under honorable conditions.

(2) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that preference in the employment of labor (except in executive, administrative, and supervisory positions) be given to Vietnam-era veterans and disabled veterans when they are available and qualified for the employment.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1267.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47112(a)	49 App.:2214(a).	Sept. 3, 1982, Pub. L. 97–248, § 515, 96 Stat. 691.
47112(b)	49 App.:2214(b).	
47112(c)	49 App.:2214(c).	

In this section, the words ''for an airport development project carried out under a grant agreement under this subchapter'' are substituted for ''on any project for airport development contained in an approved project grant application submitted in accordance with this chapter'' in 49 App.:2214(a), ''on projects for airport development approved under this chapter'' in 49 App.:2214(b), and ''under project grants for airport development approved under this chapter'' in 49 App.:2214(c) for clarity and consistency in this section. See H.R. Rept. No. 97–760, 97th Cong., 2d Sess., p. 715 (1982).

In subsection (a), the words ''or sponsors'' are omitted because of 1:1.

In subsection (b), the words ''must require contractors to pay labor minimum wage rates'' are substituted for ''shall contain provisions establishing minimum rates of wages . . . which contractors shall pay to skilled and unskilled labor'' to eliminate unnecessary words. The word ''proposals'' is omitted as included in ''bids''.

Subsection (c)(1)(A) is substituted for ''a disabled veteran is an individual described in section 2108(2) of title 5'' for consistency in the revised title and with other titles of the Code.

In subsection (c)(1)(B), the words ''after August 4, 1964, and before May 8, 1975'' are substituted for ''during the period beginning August 5, 1964, and ending May 7, 1975'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (c)(2), the words ''must require that'' are substituted for ''shall contain such provisions as are necessary to insure that'', and the words ''when they are available and qualified for the employment'' are substituted for ''However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates'', to eliminate unnecessary words.

REFERENCES IN TEXT

Act of March 3, 1931, referred to in subsec. (b), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, known as the Davis-Bacon Act, which is classified generally to section 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47119 of this title.

§ 47113. Minority and disadvantaged business participation

(a) DEFINITIONS.—In this section—

(1) ''small business concern''—

(A) has the same meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632); but

(B) does not include a concern, or group of concerns controlled by the same socially and economically disadvantaged individual, that has average annual gross receipts over the prior 3 fiscal years of more than $16,015,000, as adjusted by the Secretary of Transportation for inflation.

(2) ''socially and economically disadvantaged individual'' has the same meaning given that term in section 8(d) of the Act (15 U.S.C. 637(d)) and relevant subcontracting regulations prescribed under section 8(d), except that women are presumed to be socially and economically disadvantaged.

(b) GENERAL REQUIREMENT.—Except to the extent the Secretary decides otherwise, at least 10 percent of amounts available in a fiscal year under section 48103 of this title shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(c) UNIFORM CRITERIA.—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a small business concern qualifies under this section. The criteria shall include onsite visits, personal interviews, licenses, analyses of stock ownership and bonding capacity, listings of equipment and work completed, resumes of principal owners, financial capacity, and type of work preferred.

(d) SURVEYS AND LISTS.—Each State or airport sponsor annually shall survey and compile a list of small business concerns referred to in subsection (b) of this section and the location of each concern in the State.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1268; Pub. L. 103–429, § 6(65), Oct. 31, 1994, 108 Stat. 4386.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47113(a)	49 App.:2204(d)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 505(d); added Dec. 30, 1987, Pub. L. 100–223, § 105(f), 101 Stat. 1493; Oct. 31, 1992, Pub. L. 102–581, § 117(c), 106 Stat. 4883.
47113(b)	49 App.:2204(d)(1).	
47113(c)	49 App.:2204(d)(4).	
47113(d)	49 App.:2204(d)(3).	

In subsection (a)(1)(B), the words ''or individuals'' are omitted because of 1:1.

In subsection (a)(2), the reference is to section 8(c) of the Act because 15:637(d) was redesignated as 15:637(c) by section 3 of the Women's Business Development Act of 1991 (Public Law 102–191, 105 Stat. 1591).

In subsection (b), the words ''beginning after September 30, 1987'' are omitted as obsolete.

PUB. L. 103–429

This amends 49:47113(a)(2) to correct erroneous cross-references.

AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103–429 substituted ''8(d)'' for ''8(c)'' in two places and ''637(d))'' for ''637(c))''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47107, 47119 of this title.

§ 47114. Apportionments

(a) DEFINITION.—In this section, ''amount subject to apportionment'' means the amount newly made available under section 48103 of this title for a fiscal year.

(b) APPORTIONMENT DATE.—On the first day of each fiscal year, the Secretary of Transportation shall apportion the amount subject to apportionment for that fiscal year as provided in this section.

(c) AMOUNTS APPORTIONED TO SPONSORS.—(1)(A) The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

(i) $7.80 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;

(ii) $5.20 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;

(iii) $2.60 for each of the next 400,000 passenger boardings at the airport during the prior calendar year; and

(iv) $.65 for each additional passenger boarding at the airport during the prior calendar year.

(B) Not less than $500,000 nor more than $22,000,000 may be apportioned under subparagraph (A) of this paragraph to an airport sponsor for a primary airport for each fiscal year.

(2)(A) The Secretary shall apportion to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds for each fiscal year an amount equal to 3.5 percent of the amount subject to apportionment each year, allocated among those airports in the proportion that the total annual landed weight of those aircraft landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports. However, not more than 8 percent of the amount apportioned under this paragraph may be apportioned for any one airport.

(B) Landed weight under subparagraph (A) of this paragraph is the landed weight of aircraft landing at each of those airports and all those airports during the prior calendar year.

(3)(A) Except as provided in subparagraph (B) of this paragraph, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs

(1) and (2) until the 49.5 percent limit is achieved.

(B) If a law limits the amount subject to apportionment to less than $1,900,000,000 for a fiscal year, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 44 percent limit is achieved.

(d) AMOUNTS APPORTIONED TO STATES.—(1) In this subsection—

(A) ''area'' includes land and water.

(B) ''population'' means the population stated in the latest decennial census of the United States.

(2) The Secretary shall apportion to the States 12 percent of the amount subject to apportionment for each fiscal year as follows:

(A) one percent of the apportioned amount to Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) except as provided in paragraph (3) of this subsection, 49.5 percent of the apportioned amount for airports, except primary airports and airports described in section 47117(e)(1)(C) of this title, in States not named in clause (A) of this paragraph in the proportion that the population of each of those States bears to the total population of all of those States.

(C) except as provided in paragraph (3) of this subsection, 49.5 percent of the apportioned amount for airports, except primary airports and airports described in section 47117(e)(1)(C) of this title, in States not named in clause (A) of this paragraph in the proportion that the area of each of those States bears to the total area of all of those States.

(3) An amount apportioned under paragraph (2) of this subsection for an airport in—

(A) Alaska may be made available by the Secretary for a public airport described in section 47117(e)(1)(C)(ii) of this title to which section 15(a)(3)(A)(II) of the Airport and Airway Development Act of 1970 applied during the fiscal year that ended September 30, 1981; and

(B) Puerto Rico may be made available by the Secretary for a primary airport and an airport described in section 47117(e)(1)(C) of this title.

(e) ALTERNATIVE APPORTIONMENT FOR ALASKA.—(1) Instead of apportioning amounts for airports in Alaska under subsections (c) and (d) of this section, the Secretary may apportion amounts for those airports in the way in which amounts were apportioned in the fiscal year ending September 30, 1980, under section 15(a) of the Act. However, in apportioning amounts for a fiscal year under this subsection, the Secretary shall apportion—

(A) for each primary airport at least as much as would be apportioned for the airport under subsection (c)(1) of this section; and

(B) a total amount at least equal to the minimum amount required to be apportioned to airports in Alaska in the fiscal year ending September 30, 1980, under section 15(a)(3)(A) of the Act.

(2) This subsection does not prohibit the Secretary from making project grants for airports in Alaska from the discretionary fund under section 47115 of this title.

(3) Airports referred to in this subsection include those public airports that received scheduled service as of September 3, 1982, but were not apportioned amounts in the fiscal year ending September 30, 1980, under section 15(a) of the Act because the airports were not under the control of a State or local public agency.

(f) REDUCING APPORTIONMENTS.—An amount that would be apportioned under this section (except subsection (c)(2)) in a fiscal year to the sponsor of an airport having at least .25 percent of the total number of boardings each year in the United States and for which a fee is imposed in the fiscal year under section 40117 of this title shall be reduced by an amount equal to 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1268; Pub. L. 103–429, § 6(66), Oct. 31, 1994, 108 Stat. 4386.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47114(a), (b)	49 App.:2206(a) (words before cl. (1)).	Sept. 3, 1982, Pub. L. 97–248, § 507(a)(1), (3), (b)(2), (4)–(5)(C), (E), (6), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1494, 1496.
47114(c)(1)(A).	49 App.:2206(a)(1).	
	49 App.:2206(e)(1).	Sept. 3, 1982, Pub. L. 97–248, § 507(e), (f), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1497; Nov. 5, 1990, Pub. L. 101–508, § 9112(b), 104 Stat. 1388–362.
47114(c)(1)(B).	49 App.:2206(b)(1).	Sept. 3, 1982, Pub. L. 97–248, § 507(a)(2), (b)(1), (3), (5)(F), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1494, 1496; Oct. 31, 1992, Pub. L. 102–581, § 106, 106 Stat. 4878.
47114(c)(2) ..	49 App.:2206(a)(2), (b)(4), (e)(2).	
47114(c)(3) ..	49 App.:2206(b)(2), (3).	
47114(d)(1) ..	49 App.:2206(f).	
47114(d)(2) ..	49 App.:2206(a)(3).	
47114(d)(3) ..	49 App.:2206(b)(6).	
47114(e)	49 App.:2206(b)(5)(A)–(C), (E), (F).	
47114(f)	49 App.:2206(b)(7).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 507(b)(7); added Nov. 5, 1990, Pub. L. 101–508, § 9111, 104 Stat. 1388–362.

In subsection (a), the word ''newly'' is substituted for ''and not previously apportioned'' for clarity. The words ''made available'' are substituted for ''authorized to be obligated'' for clarity and consistency.

In subsection (c)(1)(A), the words ''during the prior calendar year'' are substituted for 49 App.:2206(b) for clarity.

In subsection (c)(2)(A), the word ''cargo'' is substituted for ''property (including mail)'' for consistency in the revised title.

In subsection (c)(3), the words ''The total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for a fiscal year'' are substituted for 49 App.:2206(b)(2)(A) and (3)(A) for clarity and to eliminate unnecessary words. The words ''If this paragraph requires reduction of an amount that otherwise would be apportioned under this subsection'' are substituted for ''In any case in which apportionments in a fiscal year would be reduced by subparagraph (A)'' for clarity.

In subsection (d)(2)(A), the words ''the Commonwealth of'' are omitted as surplus.

In subsection (d)(2)(B) and (C), the words ''except as provided in paragraph (3) of this subsection'' are added, and the words ''49.5 percent of the apportioned amount'' are substituted for ''1/2 of the remaining 99 percent'', for clarity.

In subsection (d)(3), before clause (A), the words ''Notwithstanding subsection (a)(3)(B) of this section'' are omitted as surplus.

In subsection (e)(1), before clause (A), the words ''Instead of apportioning amounts for airports in Alaska under subsections (c) and (d) of this section'' are substituted for ''Notwithstanding any other provision of subsection (a) of this section'' for clarity.

In subsection (e)(2), the words ''be construed as'' are omitted as surplus.

In subsection (f), the words ''which, but for this paragraph, would be'' the first time they appear are omitted as surplus. The words ''but not by more than'' are substituted for ''The maximum reduction in an apportionment to a sponsor of an airport as a result of this paragraph in a fiscal year shall be'' to eliminate unnecessary words.

PUB. L. 103–429

Revision notes for 49:47114(c)(3)(A) are included to reflect changes made for clarity and to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1269).

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47114(c)(1)(B).	49 App.:2206(b)(1).	Sept. 3, 1982, Pub. L. 97–248, § 507(b)(1), as amended May 26, 1994, Pub. L. 103–260, § 103, 108 Stat. 698.
47114(c)(3)(B).	49 App.:2206(b)(3).	Sept. 3, 1982, Pub. L. 97–248, § 507(b)(3), as amended May 26, 1994, Pub. L. 103–260, § 102, 108 Stat. 698.

In subsection (c)(3)(A) and (B), the words ''If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection'' are substituted for ''In any case in which apportionments in a fiscal year would be reduced by subparagraph (A)'' for clarity.

In subsection (c)(3)(A), the words ''Except as provided in subparagraph (B) of this paragraph'' are added for clarity. The words ''the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year'' are substituted for 49 App.:2206(b)(2)(A), as in effect on July 4, 1994, for clarity and to eliminate unnecessary words.

In subsection (c)(3)(B), the words ''the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year'' are substituted for 49 App.:2206(b)(3)(A), as in effect on July 4, 1994, for clarity and to eliminate unnecessary words.

REFERENCES IN TEXT

Section 15(a) of the Airport and Airway Development Act of 1970, referred to in subsecs. (d)(3)(A) and (e)(1), (3), is section 15(a) of Pub. L. 91–258, which was classified to section 1715(a) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

1994—Subsec. (c)(1)(B). Pub. L. 103–429, § 6(66)(A), substituted ''$500,000'' for ''$400,000''.

Subsec. (c)(3). Pub. L. 103–429, § 6(66)(B), designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B) of this paragraph, the'' for ''The'', ''49.5'' for ''44'' in two places, and ''If this subparagraph'' for ''If this paragraph'', and added subpar. (B).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 6(66)(B) of Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47104, 47105, 47106, 47107, 47108, 47110, 47115, 47116, 47117, 47119 of this title.

§ 47115. Discretionary fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a discretionary fund. The fund consists of—

(1) amounts subject to apportionment for a fiscal year that are not apportioned under section 47114(c)–(e) of this title; and

(2) 25 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) AVAILABILITY OF AMOUNTS.—Subject to subsection (c) of this section and section 47117(e) of this title, the fund is available for making grants for any purpose for which amounts are made available under section 48103 of this title that the Secretary considers most appropriate to carry out this subchapter. However, 50 percent of amounts not apportioned under section 47114 of this title because of section 47114(f) and added to the fund is available for making grants for projects at small hub airports (as defined in section 41731 of this title).

(c) MINIMUM PERCENTAGE FOR PRIMARY AND RELIEVER AIRPORTS.—At least 75 percent of the amount in the fund and distributed by the Secretary in a fiscal year shall be used for making grants—

(1) to preserve and enhance capacity, safety, and security at primary and reliever airports; and

(2) to carry out airport noise compatibility planning and programs at primary and reliever airports.

(d) CONSIDERATIONS.—In selecting a project for a grant to preserve and enhance capacity as described in subsection (c)(1) of this section, the Secretary shall consider—

(1) the effect the project will have on the overall national air transportation system capacity;

(2) the project benefit and cost; and

(3) the financial commitment from non-United States Government sources to preserve or enhance airport capacity.

(e) WAIVING PERCENTAGE REQUIREMENT.—If the Secretary decides the Secretary cannot comply with the percentage requirement of subsection (c) of this section in a fiscal year because there are insufficient qualified grant applications to meet that percentage, the amount the Secretary determines will not be distributed as required by subsection (c) is available for obligation during the fiscal year without regard to the requirement.

(f) CONSIDERATION OF DIVERSION OF REVENUES IN AWARDING DISCRETIONARY GRANTS.—

(1) GENERAL RULE.—Subject to paragraph (2), in deciding whether or not to distribute funds to an airport from the discretionary funds established by subsection (a) of this section and section 47116 of this title, the Secretary shall consider as a factor militating against the distribution of such funds to the airport the fact that the airport is using revenues generated by the airport or by local taxes on aviation fuel for purposes other than capital or operating costs of the airport or the local airports system or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property.

(2) REQUIRED FINDING.—Paragraph (1) shall apply only when the Secretary finds that the amount of revenues used by the airport for purposes other than capital or operating costs in the airport's fiscal year preceding the date of the application for discretionary funds exceeds the amount of such revenues in the airport's first fiscal year ending after the date of the enactment of this subsection, adjusted by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(f)[1] MINIMUM AMOUNT TO BE CREDITED.—(1) In a fiscal year, at least $325,000,000 of the amount made available under section 48103 of this title shall be credited to the fund. The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

(2) In a fiscal year in which the amount credited under subsection (a) of this section is less than $325,000,000, the total amount calculated under paragraph (3) of this subsection shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals $325,000,000.

(3) For a fiscal year, the total amount available to reduce to carry out paragraph (2) of this subsection is the total of the amounts determined under sections 47114(c)(1)(A) and (2) and (d) and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1270; Pub. L. 103–305, title I, § 112(d), Aug. 23, 1994, 108 Stat. 1576; Pub. L. 103–429, § 6(67), Oct. 31, 1994, 108 Stat. 4386.)

[1] So in original. Probably should be "(g)".

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47115(a)	49 App.:2206(c)(1) (1st, 2d sentences).	Sept. 3, 1982, Pub. L. 97–248, § 507(c), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1496; Nov. 5, 1990, Pub. L. 101–508, § 9112(a), 104 Stat. 1388–362.
47115(b)	49 App.:2206(c)(1) (3d, last sentences).	
47115(c)	49 App.:2206(c)(2).	
47115(d)	49 App.:2206(c)(3).	
47115(e)	49 App.:2206(c)(4).	

In subsection (a), before clause (1), the words "The Secretary of Transportation has a discretionary fund" are added for clarity. In clause (1), the words "subject to apportionment for a fiscal year" are substituted for "which are made available for a fiscal year under section 2204 of this Appendix" and "which have not been previously apportioned by the Secretary" for consistency with section 47114 of the revised title.

In subsection (c), before clause (1), the words "Subject to section 2207(d) of this Appendix and paragraph (4) of this subsection" and "pursuant to paragraph (1) and distributed by the Secretary under this subsection in a fiscal year beginning after September 30, 1987" are omitted as surplus.

In subsection (d), before clause (1), the words "at airports" are omitted as surplus. In clause (3), the words "airport operator or other" are omitted as surplus.

In subsection (e), the words "submitted in compliance with this chapter" and "portion of" are omitted as surplus.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47115(f)	49 App.:2206(c)(5).	Sept. 3, 1982, Pub. L. 97–248, § 507(c)(5), as added May 26, 1994, Pub. L. 103–260, § 104(a), 108 Stat. 698.
	49 App.:2206 (note).	May 26, 1994, Pub. L. 103–260, § 104(b), 108 Stat. 699.

In subsection (f), the text of section 104(b) of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 699) is omitted as executed.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (f)(2), is the date of enactment of Pub. L. 103–305, which was approved Aug. 23, 1994.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–429 added subsec. (f) relating to minimum amount to be credited.

Pub. L. 103–305 added subsec. (f) relating to consideration of diversion of revenues in awarding discretionary grants.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47107, 47110, 47114, 47118, 47119 of this title.

§ 47116. Small airport fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a small airport fund. The fund consists of 75 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) DISTRIBUTION OF AMOUNTS.—The Secretary may distribute amounts in the fund in each fiscal year for any purpose for which amounts are made available under section 48103 of this title as follows:

(1) one-third for grants to sponsors of public-use airports (except commercial service airports).

(2) two-thirds for grants to sponsors of each commercial service airport that each year has less than .05 percent of the total boardings in the United States in that year.

(c) AUTHORITY TO RECEIVE GRANT NOT DEPENDENT ON PARTICIPATION IN BLOCK GRANT PILOT PROGRAM.—An airport in a State participating in the State block grant pilot program under section 47128 of this title may receive a grant under this section to the same extent the airport may receive a grant if the State were not participating in the program.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1271.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47116(a)	49 App.:2206(d)(1) (words before ''to be distributed'').	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 507(d); added Nov. 5, 1990, Pub. L. 101–508, § 9112(b), 104 Stat. 1388–362.
47116(b)	49 App.:2206(d)(1) (words after ''small airport fund''), (2), (3).	
47116(c)	49 App.:2206(d)(4).	

In subsection (a), the words ''The Secretary of Transportation has a small airport fund'' are added for clarity.

In subsection (b), before clause (1), the words ''under this subsection'' are omitted as surplus. In clauses (1) and (2), the words ''used'' and ''making'' are omitted as surplus.

In subsection (c), the word ''pilot'' is added for consistency with section 47128 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47115 of this title.

§ 47117. Use of apportioned amounts

(a) GRANT PURPOSE.—Except as provided in this section, an amount apportioned under section 47114(c)(1) or (d)(2) of this title is available for making grants for any purpose for which amounts are made available under section 48103 of this title.

(b) PERIOD OF AVAILABILITY.—An amount apportioned under section 47114 of this title is available to be obligated for grants under the apportionment only during the fiscal year for which the amount was apportioned and the 2 fiscal years immediately after that year. If the amount is not obligated under the apportionment within that time, it shall be added to the discretionary fund.

(c) PRIMARY AIRPORTS.—(1) An amount apportioned to a sponsor of a primary airport under section 47114(c)(1) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

(2) A sponsor of a primary airport may make an agreement with the Secretary of Transportation waiving any part of the amount apportioned for the airport under section 47114(c)(1) of this title if the Secretary makes the waived amount available for a grant for another public-use airport in the same State or geographical area as the primary airport.

(d) STATE USE.—An amount apportioned to a State under—

(1) section 47114(d)(2)(A) of this title is available for grants for airports located in the State; and

(2) section 47114(d)(2)(B) or (C) of this title is available for grants for airports described in section 47114(d)(2)(B) or (C) and located in the State.

(e) SPECIAL APPORTIONMENT CATEGORIES.—(1) The Secretary shall use amounts made available under section 48103 of this title for each fiscal year as follows:

(A) at least 5 percent for grants for reliever airports.

(B) at least 12.5 percent for grants for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title.

(C) at least 1.5 percent for grants for—

(i) nonprimary commercial service airports; and

(ii) public airports (except commercial service airports) that were eligible for United States Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) or (II) of the Act applied during the fiscal year that ended September 30, 1981.

(D) at least .75 percent for integrated airport system planning grants to planning agencies designated by the Secretary and authorized by the laws of a State or political subdivision of a State to do planning for an area of the State or subdivision in which a grant under this chapter is to be used.

(E) at least 2.25 percent for the fiscal year ending September 30, 1993, and at least 2.5 percent for each of the fiscal years ending September 30, 1994, 1995, and 1996, to sponsors of current or former military airports designated by the Secretary under section 47118(a) of this title for grants for developing current and former military airports to improve the capacity of the national air transportation system.

(2) A grant from the amount apportioned under section 47114(e) of this title may not be included as part of the 1.5 percent required to be used for grants under paragraph (1)(C) of this subsection.

(3) If the Secretary decides that an amount required to be used for grants under paragraph (1) of this subsection cannot be used for a fiscal year because there are insufficient qualified grant applications, the amount the Secretary determines cannot be used is available during the fiscal year for grants for other airports or for other purposes for which amounts are authorized for grants under section 48103 of this title.

(f) LIMITATION FOR COMMERCIAL SERVICE AIRPORT IN ALASKA.—The Secretary may not make

a grant for a commercial service airport in Alaska of more than 110 percent of the amount apportioned for the airport for a fiscal year under section 47114(e) of this title.

(g) DISCRETIONARY USE OF APPORTIONMENTS.—(1) Subject to paragraph (2) of this subsection, if the Secretary finds, based on the notices the Secretary receives under section 47105(e)[1] of this title or otherwise, that an amount apportioned under section 47114 of this title will not be used for grants during a fiscal year, the Secretary may use an equal amount for grants during that fiscal year for any of the purposes for which amounts are authorized for grants under section 48103 of this title.

(2) The Secretary may make a grant under paragraph (1) of this subsection only if the Secretary decides that—

(A) the total amount used for grants for the fiscal year under section 48103 of this title will not be more than the amount made available under section 48103 for that fiscal year; and

(B) the amounts authorized for grants under section 48103 of this title for later fiscal years are sufficient for grants of the apportioned amounts that were not used for grants under the apportionment during the fiscal year and that remain available under subsection (b) of this section.

(h) LIMITING AUTHORITY OF SECRETARY.—The authority of the Secretary to make grants during a fiscal year from amounts that were apportioned for a prior fiscal year and remain available for approved airport development project grants under subsection (b) of this section may be impaired only by a law enacted after September 3, 1982, that expressly limits that authority.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1271; Pub. L. 103–305, title I, § 116(a), Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, § 6(68), Oct. 31, 1994, 108 Stat. 4387.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47117(a)	49 App.:2207(b)(1) (related to purposes for which funds may be used).	Sept. 3, 1982, Pub. L. 97–248, §§ 506(e)(4), 508(b), 96 Stat. 679, 681.
	49 App.:2207(c) (1st sentence related to purposes for which funds are available).	Sept. 3, 1982, Pub. L. 97–248, § 508(c), 96 Stat. 682; Dec. 30, 1987, Pub. L. 100–223, § 106(b)(2)(C), 101 Stat. 1498.
47117(b)	49 App.:2207(a).	Sept. 3, 1982, Pub. L. 97–248, § 508(a), 96 Stat. 681; Dec. 30, 1987, Pub. L. 100–223, § 106(b)(2)(A), (B), 101 Stat. 1497.
47117(c)(1) ..	49 App.:2207(b)(1) (related to airports at which funds may be used).	
47117(c)(2) ..	49 App.:2207(b)(2).	
47117(d)	49 App.:2207(c) (1st sentence related to airports at which funds are available, last sentence).	
47117(e)	49 App.:2202(a)(11).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(11), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.

[1] See References in Text note below.

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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:2207(d).	Sept. 3, 1982, Pub. L. 97–248, § 508(d), 96 Stat. 682; Dec. 30, 1987, Pub. L. 100–223, §§ 106(b)(2)(D), 107, 101 Stat. 1498; Nov. 5, 1990, Pub. L. 101–508, § 9109(b), 104 Stat. 1388–356; Oct. 31, 1992, Pub. L. 102–581, §§ 107(a), 108, 106 Stat. 4878, 4879.
47117(f)	49 App.:2206(b)(5)(D).	Sept. 3, 1982, Pub. L. 97–248, § 507(b)(5)(D), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1496.
47117(g)	49 App.:2207(e)(1).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 508(e)(1); added Oct. 2, 1982, Pub. L. 97–276, § 167, 96 Stat. 1204; Dec. 30, 1987, Pub. L. 100–223, § 106(b)(2)(E), 101 Stat. 1498.
	49 App.:2207(e)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 508(e)(2); added Oct. 2, 1982, Pub. L. 97–276, § 167, 96 Stat. 1205.
47117(h)	49 App.:2205(e)(4).	

In subsection (b), the words ''for grants'' are added, and the word ''apportioned'' is substituted for ''first authorized to be obligated'', for clarity. The words ''established by section 2206(c) of this Appendix'' are omitted as surplus.

In subsection (c)(2), the word ''if'' is substituted for ''on the condition that'' to eliminate unnecessary words. The word ''in'' is substituted for ''which is a part of'' for clarity.

Subsection (d) is substituted for 49 App.:2207(c) (1st sentence related to airports at which funds are available) for clarity. The text of 49 App.:2207(c) (last sentence) is omitted as surplus because of section 47105(a) of the revised title.

In subsection (e)(1), the words ''The Secretary shall use . . . (A) . . . for grants . . . (B) . . . for grants . . . (C) . . . for grants . . . (D) . . . for . . . grants . . . (E) . . . for grants'' are substituted for ''shall be distributed'' and ''shall be obligated'' for clarity and consistency in the revised title. Clause (C)(ii) is substituted for 49 App.:2207(d)(3)(B) and (C) to eliminate unnecessary words. In clause (E), the references to fiscal years 1991 and 1992 are omitted as obsolete.

In subsection (e)(2), the words ''for each fiscal year'' are omitted as surplus.

In subsection (e)(3), the words ''an amount required to be used for grants under paragraph (1) of this subsection cannot be used'' are substituted for ''he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection'' for consistency. The words ''submitted in compliance with this chapter'' are omitted as surplus. The words ''cannot be used'' are substituted for ''will not be distributed'' for consistency. The words ''for which amounts are'' are added for clarity and consistency in this chapter.

Subsection (f) is substituted for 49 App.:2206(b)(5)(D) for clarity and consistency in the revised title.

In subsection (g)(1), the words ''and (3)'' are omitted because 49 App.:2207(e)(3) has expired. The words ''at his discretion'' are omitted as surplus.

In subsection (g)(2)(A), the words ''made available'' are substituted for ''authorized'' for clarity.

In subsection (h), the words ''to make grants'' are substituted for ''to obligate to an airport by grant agreement'' for consistency in the revised title and to eliminate unnecessary words. The words ''the unobligated balance of'' are omitted as surplus. The words ''limits that authority'' are substituted for ''limits the application of this paragraph'' for clarity. The words ''in addition to the amounts authorized for that fiscal year by section 2204 of this Appendix'' are omitted as surplus.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47117(e)	49 App.:2207(d).	Sept. 3, 1982, Pub. L. 97–248, §508(d), as amended May 26, 1994, Pub. L. 103–260, §105, 108 Stat. 699.

REFERENCES IN TEXT

Section 15(a)(3) of the Airport and Airway Development Act of 1970, referred to in subsec. (e)(1)(C)(ii), is section 15(a)(3) of Pub. L. 91–258, which was classified to section 1715(a)(3) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695.

Section 47105(e) of this title, referred to in subsec. (g)(1), was redesignated section 47105(f), and a new section 47105(e) added, by Pub. L. 103–305, title I, §107(a), Aug. 23, 1994, 108 Stat. 1572.

AMENDMENTS

1994—Subsec. (e)(1)(A). Pub. L. 103–429, §6(68)(A), substituted ''5 percent'' for ''10 percent''.

Subsec. (e)(1)(C). Pub. L. 103–429, §6(68)(B), substituted ''1.5 percent'' for ''2.5 percent'' in introductory provisions.

Subsec. (e)(1)(D). Pub. L. 103–429, §6(68)(C), substituted ''.75 percent'' for ''.5 percent''.

Subsec. (e)(1)(E). Pub. L. 103–305 substituted '', 1995, and 1996'' for '', and 1995''.

Subsec. (e)(2). Pub. L. 103–429, §6(68)(D), substituted ''1.5 percent'' for ''2.5 percent''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47104, 47114, 47115, 47118 of this title.

§47118. Designating current and former military airports

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate not more than 15 current or former military airports for which grants may be made under section 47117(e)(1)(E) of this title. The Secretary may only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.

(b) SURVEY.—Not later than September 30, 1991, the Secretary shall complete a survey of current and former military airports to identify which airports have the greatest potential to improve the capacity of the national air transportation system. The survey shall identify the capital development needs of those airports to make them part of the system and which of those qualify for grants under section 47104 of this title.

(c) CONSIDERATIONS.—In carrying out this section, the Secretary shall consider only current or former military airports that, when at least partly converted to civilian commercial or reliever airports as part of the national air transportation system, will enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

(d) GRANTS.—Grants under section 47117(e)(1)(E) of this title may be made for an airport designated under subsection (a) of this section for the 5 fiscal years following the designation.

(e) TERMINAL BUILDING FACILITIES.—Notwithstanding section 47109(c)[1] of this title, not more than $5,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair a terminal building facility, including terminal gates used for revenue passengers getting on or off aircraft. A gate constructed, improved, or repaired under this subsection—

(1) may not be leased for more than 10 years; and

(2) is not subject to majority in interest clauses.

(f) PARKING LOTS, FUEL FARMS, AND UTILITIES.—Not more than a total of $4,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for the fiscal years ending September 30, 1993–1996, is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair airport surface parking lots, fuel farms, and utilities.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1273; Pub. L. 103–305, title I, §116(b)–(d), Aug. 23, 1994, 108 Stat. 1579.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47118(a)	49 App.:2207(f)(1).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(1); added Nov. 5, 1990, Pub. L. 101–508, §9109(c), 104 Stat. 1388–356; Oct. 31, 1992, Pub. L. 102–581, §107(b), 106 Stat. 4878.
47118(b)	49 App.:2207(f)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(2)–(5); added Nov. 5, 1990, Pub. L. 101–508, §9109(c), 104 Stat. 1388–356.
47118(c)	49 App.:2207(f)(3).	
47118(d)	49 App.:2207(f)(4).	
47118(e)	49 App.:2207(f)(5).	
47118(f)	49 App.:2207(f)(6).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(6); added Oct. 31, 1992, Pub. L. 102–581, §107(c)(1), 106 Stat. 4878.

In subsection (d), the word ''Grants'' is substituted for ''to participate in the program'', and the word ''grants'' is substituted for ''participation in the program'', for clarity and consistency and to eliminate unnecessary words.

In subsection (e), before clause (1), the words ''at the discretion'' and ''with Federal funding'' are omitted as surplus.

REFERENCES IN TEXT

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

Section 47109(c) of this title, referred to in subsec. (e), was repealed by Pub. L. 103–305, title I, §114(2), Aug. 23, 1994, 108 Stat. 1579.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–305, §116(b), substituted ''15'' for ''12'' and inserted at end ''The Secretary may

[1] See References in Text note below.

only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.''

Subsec. (d). Pub. L. 103–305, § 116(c), struck out at end ''If an airport does not have a level of passengers getting on aircraft during that 5-year period that qualifies the airport as a small hub airport (as defined on January 1, 1990) or reliever airport, the Secretary may redesignate the airport for grants for additional fiscal years that the Secretary decides.''

Subsec. (f). Pub. L. 103–305, § 116(d), substituted ''September 30, 1993–1996'' for ''September 30, 1993–1995''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47110, 47117 of this title.

§ 47119. Terminal development costs

(a) REPAYING BORROWED MONEY.—An amount apportioned under section 47114 of this title and made available to the sponsor of an air carrier airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, or, in the case of a commercial service airport which annually had less than 0.05 percent of the total enplanements in the United States, between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title if they had been incurred after September 3, 1982. An amount is available for a grant under this subsection—

(1) only if—

(A) the sponsor submits the certification required under section 47110(d) of this title;

(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money; and

(2) subject to the limitations in subsection (b)(1) and (2) of this section.

(b) AVAILABILITY OF AMOUNTS.—In a fiscal year, the Secretary may make available—

(1) to a sponsor of a primary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(c)(1) of this title to pay project costs allowable under section 47110(d) of this title;

(2) on approval of the Secretary, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund established under section 47115 of this title—

(A) to a sponsor of a nonprimary commercial service airport to pay project costs allowable under section 47110(d) of this title; and

(B) to a sponsor of a reliever airport for the types of project costs allowable under section 47110(d), including project costs allowable for a commercial service airport that each year does not have more than .05 percent of the total boardings in the United States;

(3) for use by a primary airport that each year does not have more than .05 percent of the total boardings in the United States, any part of amounts that may be distributed for the fiscal year from the discretionary fund and small airport fund to pay project costs allowable under section 47110(d) of this title; or

(4) not more than $25,000,000 to pay project costs allowable for the fiscal year under section 47110(d) of this title for projects at commercial service airports that were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970.

(c) NONHUB AIRPORTS.—With respect to a project at a commercial service airport which annually has less than 0.05 percent of the total enplanements in the United States, the Secretary may approve the use of the amounts described in subsection (a) notwithstanding the requirements of sections 47107(a)(17), 47112, and 47113.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 103–305, title I, § 117, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, § 6(69), Oct. 31, 1994, 108 Stat. 4387.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47119(a)	49 App.:2212(b)(4).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(4), 96 Stat. 690; Dec. 30, 1987, Pub. L. 100–223, § 106(b)(5)(B), 101 Stat. 1498.
47119(b)	49 App.:2212(b)(2).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(2), 96 Stat. 690; Dec. 30, 1987, Pub. L. 100–223, §§ 106(b)(5)(A), 111(a)(1), 101 Stat. 1498, 1503.
	49 App.:2212(b)(3).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(3), 96 Stat. 690.

In subsection (a), before clause (1), the words ''(within the meaning of section 11(1) of the Airport and Airway Development Act of 1970 [49 App. U.S.C. 1711(1)] as in effect immediately before September 3, 1982)'' are omitted because of the definition of ''air carrier airport'' in section 47102 of the revised title. The words ''after June 30, 1970'' are substituted for ''on or after July 1, 1970'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words. The words ''to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title'' are substituted for ''for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection'' for clarity and to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''In a fiscal year'' are added for clarity. In clause (2), the words ''from the discretionary fund'' are substituted for ''sums to be distributed at the discretion of the Secretary under section 2206(c) of this Appendix'' for clar-

ity and consistency in this chapter. In clause (3), the words ''for projects'' are added for clarity.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47119(b)	49 App.:2212(b)(2).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(2), as amended May 26, 1994, Pub. L. 103–260, § 107, 108 Stat. 700.

In subsection (b)(3), the words ''from the discretionary fund and small airport fund'' are substituted for ''sums to be distributed at the discretion of the Secretary under section 2206(c) and 2206(d) of this Appendix'' for clarity and consistency in this chapter.

REFERENCES IN TEXT

Section 20(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (b)(4), is section 20(b) of Pub. L. 91–258, which was classified to section 1720(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–305, § 117(1), inserted ''or, in the case of a commercial service airport which annually had less than 0.05 percent of the total enplanements in the United States, between January 1, 1992, and October 31, 1992,'' after ''July 12, 1976,''.

Subsec. (b)(2). Pub. L. 103–429, § 6(69)(B), added par. (2) and struck out former par. (2) which read as follows: ''to a sponsor of a nonprimary commercial service airport, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund to pay project costs allowable under section 47110(d) of this title; or''.

Subsec. (b)(3). Pub. L. 103–429, § 6(69)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 103–429, § 6(69)(A), redesignated par. (3) as (4).

Subsec. (c). Pub. L. 103–305, § 117(2), added subsec. (c).

§ 47120. Grant priority

In making a grant under this subchapter, the Secretary of Transportation may give priority to a project that is consistent with an integrated airport system plan.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47120	49 App.:2208(b)(9).	Sept. 3, 1982, Pub. L. 97–248, § 509(b)(9), 96 Stat. 685.

The words ''In making a grant under this subchapter'' are substituted for ''In establishing priorities for distribution of funds available pursuant to section 2206 of this Appendix'' for consistency in this chapter and to eliminate unnecessary words.

§ 47121. Records and audits

(a) RECORDS.—A sponsor shall keep the records the Secretary of Transportation requires. The Secretary may require records—

(1) that disclose—

(A) the amount and disposition by the sponsor of the proceeds of the grant;

(B) the total cost of the plan or program for which the grant is given or used; and

(C) the amounts and kinds of costs of the plan or program provided by other sources; and

(2) that make it easier to carry out an audit.

(b) AUDITS AND EXAMINATIONS.—The Secretary and the Comptroller General may audit and examine records of a sponsor that are related to a grant made under this subchapter.

(c) AUTHORITY OF COMPTROLLER GENERAL.—When an independent audit is made of the accounts of a sponsor under this subchapter related to the disposition of the proceeds of the grant or related to the plan or program for which the grant was given or used, the sponsor shall submit a certified copy of the audit to the Comptroller General not more than 6 months after the end of the fiscal year for which the audit was made. Not later than April 15 of each year, the Comptroller General shall report to Congress describing the results of each audit conducted or reviewed by the Comptroller General under this section during the prior fiscal year. The Comptroller General shall prescribe regulations necessary to carry out this subsection.

(d) AUDIT REQUIREMENT.—The Secretary may require a sponsor to conduct an appropriate audit as a condition for receiving a grant under this subchapter.

(e) ANNUAL REVIEW.—The Secretary shall review annually the recordkeeping and reporting requirements under this subchapter to ensure that they are the minimum necessary to carry out this subchapter.

(f) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize the Secretary or the Comptroller General to withhold information from a committee of Congress authorized to have the information.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47121(a)	49 App.:2217(a) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 518, 96 Stat. 693.
47121(b)	49 App.:2217(b) (1st sentence).	
47121(c)	49 App.:2217(c).	
47121(d)	49 App.:2217(b) (last sentence).	
47121(e)	49 App.:2217(a) (last sentence).	
47121(f)	49 App.:2217(d).	

In subsections (a)–(d), the word ''sponsor'' is substituted for ''recipient of a grant under this chapter'' and ''recipient'' for clarity.

In subsection (a), before clause (1), the words ''The Secretary may require records'' are substituted for ''including records'' for clarity. In clause (1), before subclause (A), the word ''fully'' is omitted as surplus.

In subsection (b), the words ''or any of their duly authorized representatives'' are omitted as surplus because of 49:322(b) and 31:711. The words ''may audit and examine'' are substituted for ''shall have access for the purpose of audit and examination'' to eliminate unnecessary words. The words ''books, documents, papers'' are omitted as being included in ''records''.

In subsection (e), the words ''minimum necessary to carry out'' are substituted for ''that such requirements are kept to the minimum level necessary for the proper administration of'' to eliminate unnecessary words.

In subsection (f), the words ''or any officer or employee under the control of either of them'' are omitted as surplus because of 49:322(b) and 31:711.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47110 of this title.

§ 47122. Administrative

(a) GENERAL.—The Secretary of Transportation may take action the Secretary considers necessary to carry out this subchapter, including conducting investigations and public hearings, prescribing regulations and procedures, and issuing orders.

(b) CONDUCTING INVESTIGATIONS AND PUBLIC HEARINGS.—In conducting an investigation or public hearing under this subchapter, the Secretary has the same authority the Secretary has under section 46104 of this title. An action of the Secretary in exercising that authority is governed by the procedures specified in section 46104 and shall be enforced as provided in section 46104.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1275.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47122(a)	49 App.:2218(a).	Sept. 3, 1982, Pub. L. 97–248, § 519(a), 96 Stat. 694; Dec. 30, 1987, Pub. L. 100–223, § 112(1), 101 Stat. 1504.
47122(b)	49 App.:1354(c) (related to Airport and Airway Improvement Act of 1982).	Aug. 23, 1958, Pub. L. 85–726, § 313(c) (related to Airport and Airway Improvement Act of 1982), 72 Stat. 753; Sept. 3, 1982, Pub. L. 97–248, § 524(a)(2), 96 Stat. 696.

Subsection (a) is substituted for 49 App.:2218(a) to eliminate unnecessary words.

§ 47123. Nondiscrimination

The Secretary of Transportation shall take affirmative action to ensure that an individual is not excluded because of race, creed, color, national origin, or sex from participating in an activity carried out with money received under a grant under this subchapter. The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall be similar to those in effect under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). This section is in addition to title VI of the Act.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1275.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47123	49 App.:2219.	Sept. 3, 1982, Pub. L. 97–248, § 520, 96 Stat. 694.

The words ''as the Secretary deems'' and ''the purposes of'' are omitted as surplus. The words ''The regulations shall be similar to those in effect under'' are substituted for ''and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under'' for clarity and to eliminate unnecessary words and because ''rules'' and ''regulations'' are synonymous. The words ''The provisions of . . . and not in lieu of the provisions of'' are omitted as surplus. The word ''is'' is substituted for ''shall be considered to be'' to eliminate unnecessary words.

REFERENCES IN TEXT

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

§ 47124. Agreements for State and local operation of airport facilities

(a) GOVERNMENT RELIEF FROM LIABILITY.—The Secretary of Transportation shall ensure that an agreement under this subchapter with a State or a political subdivision of a State to allow the State or subdivision to operate an airport facility in the State or subdivision relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the State or subdivision in operating the airport facility.

(b) AIR TRAFFIC CONTROL CONTRACT PROGRAM.—(1) The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable.

(2) The Secretary may make a contract, on a sole source basis, with a State or a political subdivision of a State to allow the State or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the State or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the State or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1276.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47124(a)	49 App.:2222.	Sept. 3, 1982, Pub. L. 97–248, § 526, 96 Stat. 698.
47124(b)(1) ..	49 App.:2222 (note).	Dec. 30, 1987, Pub. L. 100–223, § 306, 101 Stat. 1526.
47124(b)(2) ..	49 App.:1344(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 747, § 303(h); added Oct. 31, 1992, Pub. L. 102–581, § 201(a), 106 Stat. 4890.

In subsection (a), the words ''In the powers granted under section 2218 of this Appendix'' and ''contract or other'' are omitted as surplus. The word ''relieves'' is substituted for ''contain, among others, a provision relieving'', and the words ''from any liability arising out of, or related to'' are substituted for ''of any and all liability for the payment of any claim or other obligation arising out of or in connection with'', to eliminate unnecessary words.

In subsection (b)(1), the words ''in effect'' are omitted as surplus. The words ''on December 30, 1987'' are added for clarity.

In subsection (b)(2), the word ''Secretary'' is substituted for ''Administrator'' for consistency in the chapter.

CONTRACT TOWER ASSISTANCE

Pub. L. 103–305, title V, § 508, Aug. 23, 1994, 108 Stat. 1596, provided that: ''The Secretary shall take appropriate action to assist communities where the Secretary deems such assistance appropriate in obtaining the installation of a Level I Contract Tower for those communities.''

§ 47125. Conveyances of United States Government land

(a) CONVEYANCES TO PUBLIC AGENCIES.—Except as provided in subsection (b) of this section, the Secretary of Transportation shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems. The head of the department, agency, or instrumentality shall decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality and shall notify the Secretary of that decision not later than 4 months after receiving the request. If the head of the department, agency, or instrumentality decides that the requested conveyance is consistent with its needs, the head of the department, agency, or instrumentality, with the approval of the Attorney General and without cost to the Government, shall make the conveyance. A conveyance may be made only on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance.

(b) NONAPPLICATION.—Except as specifically provided by law, subsection (a) of this section does not apply to land or airspace owned or controlled by the Government within—

(1) a national park, national monument, national recreation area, or similar area under the administration of the National Park Service;

(2) a unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or

(3) a national forest or Indian reservation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1276.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47125(a)	49 App.:2215(a), (b).	Sept. 3, 1982, Pub. L. 97–248, §516, 96 Stat. 692.
47125(b)	49 App.:2215(c).	

In subsection (a), the text of 49 App.:2215(a) (last sentence) is omitted as surplus because a ''property interest in land or airspace'' necessarily includes ''title to . . . land or any easement through . . . airspace''. The words ''when necessary'' are substituted for ''whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for'', and the words ''for the future development'' are substituted for ''including lands reasonably necessary to meet future development'', to eliminate unnecessary words. The words ''not later than 4 months after receiving the request'' are substituted for ''Upon receipt of a request from the Secretary under this section'' and ''within a period of four months after receipt of the Secretary's request'' for clarity and to eliminate unnecessary words. The words ''make the conveyance'' are substituted for ''perform any acts and to execute any instruments necessary to make the conveyance requested'', and the words ''that the property interest conveyed reverts to the Government . . . to the extent it is not'' are substituted for ''the property interest conveyed shall revert to the United States in the event that the lands in question are not'' and ''If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States'', to eliminate unnecessary words. The words ''the terms of'' are omitted as surplus.

§ 47126. Criminal penalties for false statements

A person (including an officer, agent, or employee of the United States Government or a public agency) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, with intent to defraud the Government, knowingly makes—

(1) a false statement about the kind, quantity, quality, or cost of the material used or to be used, or the quantity, quality, or cost of work performed or to be performed, in connection with the submission of a plan, map, specification, contract, or estimate of project cost for a project included in a grant application submitted to the Secretary of Transportation for approval under this subchapter;

(2) a false statement or claim for work or material for a project included in a grant application approved by the Secretary under this subchapter; or

(3) a false statement in a report or certification required under this subchapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47126	49 App.:2216.	Sept. 3, 1982, Pub. L. 97–248, §517, 96 Stat. 693.

In this section, before clause (1), the words ''association, firm, or corporation'' are omitted because of 1:1. The words ''fined under title 18'' are substituted for ''a fine of not to exceed $10,000'' for consistency with title 18. In clauses (1)–(3), the words ''false representation'' are omitted as surplus. In clauses (1) and (2), the words ''false report'' are omitted as surplus. The words ''included in a grant application'' are added for clarity and consistency in this chapter. In clause (3), the words ''to be made'' are omitted as surplus.

§ 47127. Ground transportation demonstration projects

(a) GENERAL AUTHORITY.—To improve the airport and airway system of the United States consistent with regional airport system plans financed under section 13(b) of the Airport and Airway Development Act of 1970, the Secretary of Transportation may carry out ground transportation demonstration projects to improve ground access to air carrier airport terminals. The Secretary may carry out a demonstration project independently or by grant or contract, including an agreement with another department, agency, or instrumentality of the United States Government.

(b) PRIORITY.—In carrying out this section, the Secretary shall give priority to a demonstration project that—

(1) affects an airport in an area with an operating regional rapid transit system with existing facilities reasonably near the airport;

(2) includes connection of the airport terminal to that system;

(3) is consistent with and supports a regional airport system plan adopted by the planning agency for the region and submitted to the Secretary; and

(4) improves access to air transportation for individuals residing or working in the region by encouraging the optimal balance of use of airports in the region.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47127(a)	49 App.:1713a(1).	July 12, 1976, Pub. L. 94–353, § 23(a), 90 Stat. 884.
47127(b)	49 App.:1713a(2).	

In subsection (a), the words ''To improve'' are substituted for ''which he determines will assist the improvement of'' to eliminate unnecessary words.

In subsection (b)(2), the word ''facilities'' is omitted as surplus.

REFERENCES IN TEXT

Section 13(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (a), is section 13(b) of Pub. L. 91–258, which was classified to section 1713(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 49101, 49102, 49104, 49105 of this title.

§ 47128. State block grant pilot program

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall prescribe regulations to carry out a State block grant pilot program. The regulations shall provide that the Secretary may designate not more than 7 qualified States to assume administrative responsibility for all airport grant amounts available under this subchapter, except for amounts designated for use at primary airports.

(b) APPLICATIONS AND SELECTION.—(1) A State wishing to participate in the program must submit an application to the Secretary. The Secretary shall select a State on the basis of its application only after—

(A) deciding the State has an organization capable of effectively administering a block grant made under this section;

(B) deciding the State uses a satisfactory airport system planning process;

(C) deciding the State uses a programming process acceptable to the Secretary;

(D) finding that the State has agreed to comply with United States Government standard requirements for administering the block grant; and

(E) finding that the State has agreed to provide the Secretary with program information the Secretary requires.

(2) For the fiscal years ending September 30, 1993–1996, the States selected shall include Illinois, Missouri, and North Carolina.

(c) SAFETY AND SECURITY NEEDS AND NEEDS OF SYSTEM.—Before deciding whether a planning process is satisfactory or a programming process is acceptable under subsection (b)(1)(B) or (C) of this section, the Secretary shall ensure that the process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding which projects will receive money from the Government.

(d) ENDING EFFECTIVE DATE AND REPORT.—This section is effective only through September 30, 1996.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1277; Pub. L. 103–429, § 6(70), Oct. 31, 1994, 108 Stat. 4387.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47128(a)	49 App.:2227(a) (1st sentence), (b) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 534; added Dec. 30, 1987, Pub. L. 100–223, § 116, 101 Stat. 1507; Nov. 5, 1990, Pub. L. 101–508, § 9114, 104 Stat. 1388–364; Oct. 31, 1992, Pub. L. 102–581, § 116, 106 Stat. 4881.
47128(b)(1) ..	49 App.:2227(c) (1st, 2d sentences).	
47128(b)(2) ..	49 App.:2227(b) (last sentence).	
47128(c)	49 App.:2227(c) (last sentence).	
47128(d)	49 App.:2227(a) (last sentence), (d).	

In subsection (a), the words ''Not later than 180 days after December 30, 1987'' and ''to become effective on October 1, 1989'' are omitted as obsolete.

In subsection (b)(1)(A), the words ''agency or'' are omitted as surplus.

In subsection (b)(1)(D), the words ''procedural and other'' are omitted as surplus.

In subsection (d), the text of 49 App.:2227(d) is omitted as executed.

PUB. L. 103–429

This amends 49:47128(c) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1278).

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–429 substituted ''subsection (b)(1)(B) or (C)'' for ''subsection (b)(2) or (3)''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47116 of this title.

§ 47129. Resolution of airport-air carrier disputes concerning airport fees

(a) AUTHORITY TO REQUEST SECRETARY'S DETERMINATION.—

(1) IN GENERAL.—The Secretary of Transportation shall issue a determination as to whether a fee imposed upon one or more air carriers (as defined in section 40102 of this subtitle) by the owner or operator of an airport is reasonable if—

(A) a written request for such determination is filed with the Secretary by such owner or operator; or

(B) a written complaint requesting such determination is filed with the Secretary by an affected air carrier within 60 days after such carrier receives written notice of the establishment or increase of such fee.

(2) CALCULATION OF FEE.—A fee subject to a determination of reasonableness under this section may be calculated pursuant to either a compensatory or residual fee methodology or any combination thereof.

(3) SECRETARY NOT TO SET FEE.—In determining whether a fee is reasonable under this section, the Secretary may only determine whether the fee is reasonable or unreasonable and shall not set the level of the fee.

(b) PROCEDURAL REGULATIONS.—Not later than 90 days after the date of the enactment of this section, the Secretary shall publish in the Federal Register final regulations, policy statements, or guidelines establishing—

(1) the procedures for acting upon any written request or complaint filed under subsection (a)(1); and

(2) the standards or guidelines that shall be used by the Secretary in determining under this section whether an airport fee is reasonable.

(c) DECISIONS BY SECRETARY.—The final regulations, policy statements, or guidelines required in subsection (b) shall provide the following:

(1) Not more than 120 days after an air carrier files with the Secretary a written complaint relating to an airport fee, the Secretary shall issue a final order determining whether such fee is reasonable.

(2) Within 30 days after such complaint is filed with the Secretary, the Secretary shall dismiss the complaint if no significant dispute exists or shall assign the matter to an administrative law judge; and thereafter the matter shall be handled in accordance with part 302 of title 14, Code of Federal Regulations, or as modified by the Secretary to ensure an orderly disposition of the matter within the 120-day period and any specifically applicable provisions of this section.

(3) The administrative law judge shall issue a recommended decision within 60 days after the complaint is assigned or within such shorter period as the Secretary may specify.

(4) If the Secretary, upon the expiration of 120 days after the filing of the complaint, has not issued a final order, the decision of the administrative law judge shall be deemed to be the final order of the Secretary.

(5) Any party to the dispute may seek review of a final order of the Secretary under this subsection in the Circuit Court of Appeals for the District of Columbia Circuit or the court of appeals in the circuit where the airport which gives rise to the written complaint is located.

(6) Any findings of fact in a final order of the Secretary under this subsection, if supported by substantial evidence, shall be conclusive if challenged in a court pursuant to this subsection. No objection to such a final order shall be considered by the court unless objection was urged before an administrative law judge or the Secretary at a proceeding under this subsection or, if not so urged, unless there were reasonable grounds for failure to do so.

(d) PAYMENT UNDER PROTEST; GUARANTEE OF AIR CARRIER ACCESS.—

(1) PAYMENT UNDER PROTEST.—

(A) IN GENERAL.—Any fee increase or newly established fee which is the subject of a complaint that is not dismissed by the Secretary shall be paid by the complainant air carrier to the airport under protest.

(B) REFERRAL OR CREDIT.—Any amounts paid under this subsection by a complainant air carrier to the airport under protest shall be subject to refund or credit to the air carrier in accordance with directions in the final order of the Secretary within 30 days of such order.

(C) ASSURANCE OF TIMELY REPAYMENT.—In order to assure the timely repayment, with interest, of amounts in dispute determined not to be reasonable by the Secretary, the airport shall obtain a letter of credit, or surety bond, or other suitable credit facility, equal to the amount in dispute that is due during the 120-day period established by this section, plus interest, unless the airport and the complainant air carrier agree otherwise.

(D) DEADLINE.—The letter of credit, or surety bond, or other suitable credit facility shall be provided to the Secretary within 20 days of the filing of the complaint and shall remain in effect for 30 days after the earlier of 120 days or the issuance of a timely final order by the Secretary determining whether such fee is reasonable.

(2) GUARANTEE OF AIR CARRIER ACCESS.—Contingent upon an air carrier's compliance with the requirements of paragraph (1) and pending the issuance of a final order by the Secretary determining the reasonableness of a fee that is the subject of a complaint filed under subsection (a)(1)(B), an owner or operator of an airport may not deny an air carrier currently providing air service at the airport reasonable access to airport facilities or service, or otherwise interfere with an air carrier's prices, routes, or services, as a means of enforcing the fee.

(e) APPLICABILITY.—This section does not apply to—

(1) a fee imposed pursuant to a written agreement with air carriers using the facilities of an airport;

(2) a fee imposed pursuant to a financing agreement or covenant entered into prior to the date of the enactment of this section; or

(3) any other existing fee not in dispute as of such date of enactment.

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect—

(1) the rights of any party under any existing written agreement between an air carrier and the owner or operator of an airport; or

(2) the ability of an airport to meet its obligations under a financing agreement, or cov-

enant, that is in force as of the date of the enactment of this section.

(g) DEFINITION.—In this section, the term ''fee'' means any rate, rental charge, landing fee, or other service charge for the use of airport facilities.

(Added Pub. L. 103–305, title I, § 113(a)(2), Aug. 23, 1994, 108 Stat. 1577.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (b), (e)(2), (3), and (f)(2), is the date of enactment of Pub. L. 103–305, which was approved Aug. 23, 1994.

PRIOR PROVISIONS

A prior section 47129 was renumbered section 47131 of this title.

§ 47130. Airport safety data collection

Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may contract, using sole source or limited source authority, for the collection of airport safety data.

(Added Pub. L. 103–305, title I, § 118(a), Aug. 23, 1994, 108 Stat. 1580.)

§ 47131. Annual report

Not later than April 1 of each year, the Secretary of Transportation shall submit to Congress a report on activities carried out under this subchapter during the prior fiscal year. The report shall include—

(1) a detailed statement of airport development completed;

(2) the status of each project undertaken;

(3) the allocation of appropriations; and

(4) an itemized statement of expenditures and receipts.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1278, § 47129; renumbered § 47131, Pub. L. 103–305, title I, § 113(a)(1), Aug. 23, 1994, 108 Stat. 1577.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47129	49 App.:2220.	Sept. 3, 1982, Pub. L. 97–248, § 521, 96 Stat. 694.

In this section, before clause (1), the words ''on activities carried out'' are substituted for ''describing his operations'' for clarity.

AMENDMENTS

1994—Pub. L. 103–305 renumbered section 47129 of this title as this section.

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 5 sections 551, 701.

§ 47151. Authority to transfer an interest in surplus property

(a) GENERAL AUTHORITY.—Subject to sections 47152 and 47153 of this title, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may give a State, political subdivision of a State, or tax-supported organization any interest in surplus property—

(1) that the Secretary of Transportation decides is—

(A) desirable for developing, improving, operating, or maintaining a public airport (as defined in section 47102 of this title);

(B) reasonably necessary to fulfill the immediate and foreseeable future requirements for developing, improving, operating, or maintaining a public airport; or

(C) needed for developing sources of revenue from nonaviation businesses at a public airport; and

(2) if the Administrator of General Services approves the gift and decides the interest is not best suited for industrial use.

(b) ENSURING COMPLIANCE.—Only the Secretary may ensure compliance with an instrument giving an interest in surplus property under this subchapter. The Secretary may amend the instrument to correct the instrument or to make the gift comply with law.

(c) DISPOSING OF INTERESTS NOT GIVEN UNDER THIS SUBCHAPTER.—An interest in surplus property that could be used at a public airport but that is not given under this subchapter shall be disposed of under other applicable law.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1278.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47151(a)	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
	50 App.:1622(g)(1).	Oct. 3, 1944, ch. 479, 58 Stat. 765, § 13(g)(1); added July 30, 1947, ch. 404, § 2, 61 Stat. 678; Aug. 23, 1958, Pub. L. 85–726, § 1402(c), 72 Stat. 807; May 21, 1970, Pub. L. 91–258, § 52(b)(6), 84 Stat. 235; Sept. 3, 1982, Pub. L. 97–248, § 524(c), 96 Stat. 696.
47151(b)	49 App.:1655(c)(1). 50 App.:1622b.	Oct. 1, 1949, ch. 589, § 3, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, § 1402(c), 72 Stat. 807.
47151(c)	50 App.:1622(g)(5), (6).	Oct. 3, 1944, ch. 479, 58 Stat. 765, § 13(g)(5), (6); added July 30, 1947, ch. 404, § 2, 61 Stat. 680.

In subsection (a), before clause (1), the words ''Notwithstanding any other provision of this Act'' are omitted as surplus. The words ''Subject to sections 47152 and 47153 of this title'' are substituted for ''but subject to the terms, conditions, reservations, and restrictions hereinafter provided for'' to eliminate unnecessary words. The words ''a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation'' are substituted for ''any disposal agency designated pursuant to this Act'' for clarity because disposal agencies were Government agencies designated under 50 App.:1619(a), that was repealed by section 602(a)(1) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 399), and Government agencies were all departments, agencies, and instrumentalities of the executive branch of the United States Government and wholly owned Government cor-

porations. The word ''give'' is substituted for ''convey or dispose of . . . without monetary consideration to the United States'', to eliminate unnecessary words. The word ''municipality'' is omitted as being included in ''political subdivision''. The words ''of a State'' are added for clarity and consistency in the revised title and with other titles of the United States Code. The word ''organization'' is substituted for ''institution'' for consistency in the revised title. The words ''all of the right, title, and . . . of the United States . . . and to . . . real or personal'' are omitted as surplus. In clause (1)(A), the words ''essential, suitable, or'' are omitted as surplus. In clause (1)(B), the words ''of the grantee'' are omitted as surplus. In clause (2), the words ''Administrator of General Services'' are substituted for ''[War Assets] Administrator'' in section 13(g)(1) of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) because of section 105 of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 381). The words ''and decides the interest is not best suited for industrial use'' are substituted for ''(exclusive of property the highest and best use of which is determined by the Administrator of General Services to be industrial and which shall be so classified for disposal without regard to the provisions of this subsection)'' to eliminate unnecessary words.

Subsection (b) is substituted for 50 App.:1622b to eliminate unnecessary words.

In subsection (c), the text of 50 App.:1622(g)(5) is omitted as obsolete because 50 App.:1621, 1622(f), and 1627(e) were repealed by section 602(a)(1) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 399). The words ''An interest in surplus property that could be used at a public airport'' are substituted for ''All surplus property within the purview of this subsection'' for clarity. The words ''elsewhere in this Act or other applicable'' are omitted as surplus. The word ''law'' is substituted for ''Federal Statute'' for consistency in the revised title and with other titles of the Code.

§ 47152. Terms of gifts

Except as provided in section 47153 of this title, the following terms apply to a gift of an interest in surplus property under this subchapter:

(1) A State, political subdivision of a State, or tax-supported organization receiving the interest may use, lease, salvage, or dispose of the interest for other than airport purposes only after the Secretary of Transportation gives written consent that the interest can be used, leased, salvaged, or disposed of without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which the property is located.

(2) The interest shall be used and maintained for public use and benefit without unreasonable discrimination.

(3) A right may not be vested in a person, excluding others in the same class from using the airport at which the property is located—

(A) to conduct an aeronautical activity requiring the operation of aircraft; or

(B) to engage in selling or supplying aircraft, aircraft accessories, equipment, or supplies (except gasoline and oil), or aircraft services necessary to operate aircraft (including maintaining and repairing aircraft, aircraft engines, propellers, and appliances).

(4) The State, political subdivision, or tax-supported organization accepting the interest shall clear and protect the aerial approaches to the airport by mitigating existing, and preventing future, airport hazards.

(5) During a national emergency declared by the President or Congress, the United States Government is entitled to use, control, or possess, without charge, any part of the public airport at which the property is located. However, the Government shall—

(A) pay the entire cost of maintaining the part of the airport it exclusively uses, controls, or possesses during the emergency;

(B) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining the property it uses nonexclusively, or over which the Government has nonexclusive control or possession, during the emergency; and

(C) pay a fair rental for use, control, or possession of improvements to the airport made without Government assistance.

(6) The Government is entitled to the nonexclusive use, without charge, of the landing area of an airport at which the property is located. The Secretary may limit the use of the landing area if necessary to prevent unreasonable interference with use by other authorized aircraft. However, the Government shall—

(A) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining and operating the landing area; and

(B) pay for damages caused by its use of the landing area if its use of the landing area is substantial.

(7) The State, political subdivision, or tax-supported organization accepting the interest shall release the Government from all liability for damages arising under an agreement that provides for Government use of any part of an airport owned, controlled, or operated by the State, political subdivision, or tax-supported organization on which, adjacent to which, or in connection with which, the property is located.

(8) When a term under this section is not satisfied, any part of the interest in the property reverts to the Government, at the option of the Government, as the property then exists.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1279.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47152	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
	50 App.:1622(g)(2).	Oct. 3, 1944, ch. 479, 58 Stat. 765, § 13(g)(2); added July 30, 1947, ch. 404, § 2, 61 Stat. 678; Oct. 1, 1949, ch. 589, § 1, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, § 1402(c), 72 Stat. 807.

In this section, before paragraph (1), the words ''conditions, reservations, and restrictions'' and ''the authority of'' are omitted as surplus. In paragraph (1), the words ''A State, political subdivision of a State, or tax-supported organization receiving the interest'' are substituted for ''grantee or transferee'' for clarity. The words ''sold'' and ''disposed of under the authority of this subsection'' are omitted as surplus. In paragraph (2), the words ''transferred for airport purposes'' are

omitted as surplus. In paragraph (3), before clause (A), the words ''For the purpose of this condition, an exclusive right is defined to mean'' and ''any exclusive right to'' are omitted because of the restatement. The words ''exclusive'' and ''(either directly or indirectly)'' are omitted as surplus. The words ''or persons'' are omitted because of 1:1. The words ''disposed of'' are omitted as surplus. In clause (A), the word ''particular'' is omitted as surplus. In paragraph (4), the words ''removing, lowering, relocating, marking, or lighting or otherwise'' and ''the establishment or creation of'' are omitted as surplus. In paragraphs (5)–(7), the words ''or used'' are omitted as surplus. In paragraph (5), before clause (A), the words ''exclusive or nonexclusive'' and ''as it may desire'' are omitted as surplus. In clause (A), the word ''pay'' is substituted for ''be responsible for'' to eliminate unnecessary words. The words ''during the emergency'' are substituted for ''during the period of such use, possession, or control'' to eliminate unnecessary words and for clarity. In clause (B), the words ''be obligated to'' are omitted as surplus. The words ''during the emergency'' are added for clarity. In clause (C), the words ''exclusively or nonexclusively'' are omitted as surplus. In paragraph (6), before clause (A), the words ''as may be determined at any time'' are omitted as surplus. In clause (B), the words ''be obligated to'' are omitted as surplus. In paragraph (7), the words ''The State, political subdivision, or tax-supported organization accepting the interest'' are substituted for ''Any public agency accepting a conveyance or transfer of surplus property under the provisions of this subsection'' to eliminate unnecessary words and for consistency in this section. The words ''any and . . . it may be under for restoration or other . . lease or other'' are omitted as surplus. The text of 50 App.:1622(g)(2)(G) (proviso) is omitted because 49 App.:1116 was repealed by section 52(a) of the Airport and Airway Development Act of 1970 (Public Law 91–258, 84 Stat. 235). Paragraph (8) is substituted for 50 App.:1622(g)(2)(H) to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47151, 47153 of this title.

§ 47153. Waiving and adding terms

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation may waive, without charge, a term of a gift of an interest in property under this subchapter if the Secretary decides that—

(A) the property no longer serves the purpose for which it was given; or

(B) the waiver will not prevent carrying out the purpose for which the gift was made and is necessary to advance the civil aviation interests of the United States.

(2) The Secretary of Transportation shall waive a term under paragraph (1) of this subsection on terms the Secretary considers necessary to protect or advance the civil aviation interests of the United States.

(b) WAIVERS AND INCLUSION OF ADDITIONAL TERMS ON REQUEST.—On request of the Secretary of Transportation or the Secretary of a military department, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may waive a term required by section 47152 of this title or add another term if the appropriate Secretary decides it is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1280.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47153(a)	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
	50 App.:1622c.	Oct. 1, 1949, ch. 589, § 4, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, § 1402(c), 72 Stat. 807.
47153(b)	49 App.:1655(c)(1). 50 App.:1622(g)(3).	Oct. 3, 1944, ch. 479, 58 Stat. 765, § 13(g)(3); added July 30, 1947, ch. 404, § 2, 61 Stat. 680; Aug. 23, 1958, Pub. L. 85–726, § 1402(c), 72 Stat. 807.

In subsection (a), before clause (1), the words ''Notwithstanding any other provision of law'' and ''further'' are omitted as surplus. The word ''waive'' is substituted for ''grant releases from'' and ''and to convey, quitclaim, or release any right or interest reserved to the United States by'' to eliminate unnecessary words. The words ''a term of a gift of an interest in property under this subchapter'' are substituted for ''any of the terms, conditions, reservations, and restrictions contained in . . . any such instrument of disposal'' for clarity and consistency. In clause (1), the words ''transferred by such instrument'' are omitted as surplus. In clause (2), the text of 50 App.:1622c (last proviso) is omitted as executed. The words ''protect or'' are omitted as surplus.

In subsection (b), the words ''In making any disposition of surplus property under this subsection'' are omitted as surplus. The words ''Secretary of a military department'' are substituted for ''the Secretary of the Army, or the Secretary of the Navy'' for consistency with other titles of the United States Code and to eliminate unnecessary words. The words ''Secretary of the Army'' are substituted for ''Secretary of War'' in section 13(g)(3) of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) because of section 205(a) of the National Security Act of 1947 (ch. 343, 61 Stat. 501). The Secretary of the Air Force is included in ''Secretary of a military department'' because of section 207(a) and (f) of the National Security Act of 1947 (ch. 343, 61 Stat. 502, 503). The word ''waive'' is substituted for ''omit from the instrument of disposal'' to eliminate unnecessary words and for consistency in this subchapter. The words ''conditions, reservations, and restrictions'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47151, 47152 of this title.

CHAPTER 473—INTERNATIONAL AIRPORT FACILITIES

Sec.
47301. Definitions.
47302. Providing airport and airway property in foreign territories.
47303. Training foreign citizens.
47304. Transfer of airport and airway property.
47305. Administrative.
47306. Criminal penalty.

§ 47301. Definitions

In this chapter—

(1) ''airport property'' means an interest in property used or useful in operating and maintaining an airport.

(2) ''airway property'' means an interest in property used or useful in operating and maintaining a ground installation, facility, or equipment desirable for the orderly and safe operation of air traffic, including air naviga-

tion, air traffic control, airway communication, and meteorological facilities.

(3) ''foreign territory'' means an area—

(A) over which no government or a government of a foreign country has sovereignty;

(B) temporarily under military occupation by the United States Government; or

(C) occupied or administered by the Government or a government of a foreign country under an international agreement.

(4) ''territory outside the continental United States'' means territory outside the 48 contiguous States and the District of Columbia.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1280.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47301(1)–(3)	49 App.:1151.	June 16, 1948, ch. 473, § 2, 62 Stat. 450; Aug. 23, 1958, Pub. L. 85–726, § 1403, 72 Stat. 808.
47301(4)	(no source).	

In this section, the words ''the purposes of'' and ''The term'' are omitted as surplus.

In clauses (1) and (2), the words ''real or personal'', ''directly or indirectly'', ''administration'', and ''(including parts and components thereof)'' are omitted as surplus.

In clause (1), the words ''including . . . (1) land; (2) runways, strips, taxiways, and parking aprons; (3) buildings, structures, improvements, and facilities, whether or not used in connection with the landing and take-off of aircraft; and (4) equipment . . . furniture, vehicles, and supplies'' are omitted as being included in ''an interest in property''.

In clause (2), the words ''necessary or'' are omitted as surplus.

In clause (3), before subclause (A), the words ''of land or water'' are omitted as surplus. In subclause (A), the words ''no government or a government of a foreign country'' are substituted for ''no nation or a nation other than the United States'' for consistency in the revised title and with other titles of the United States Code. The words ''(including territory of undetermined sovereignty and the high seas)'' are omitted as surplus. In subclause (C), the words ''government of a foreign country'' are substituted for ''other nation'' for consistency in the revised title and with other titles of the Code.

Clause (4) is derived from the source provisions of the chapter and is included to avoid repeating the phrase ''territory (including Alaska) outside the continental limits of the United States''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 App. section 474.

§ 47302. Providing airport and airway property in foreign territories

(a) GENERAL AUTHORITY.—Subject to the concurrence of the Secretary of State and the consideration of objectives of the International Civil Aviation Organization—

(1) the Secretary of Transportation may acquire, establish, and construct airport property and airway property (except meteorological facilities) in foreign territory; and

(2) the Secretary of Commerce may acquire, establish, and construct meteorological facilities in foreign territory.

(b) SPECIFIC APPROPRIATIONS REQUIRED.—Except for airport property transferred under section 47304(b) of this title, an airport (as defined in section 40102(a) of this title) may be acquired, established, or constructed under subsection (a) of this section only if amounts have been appropriated specifically for the airport.

(c) ACCEPTING FOREIGN PAYMENTS.—The Secretary of Transportation or Commerce, as appropriate, may accept payment from a government of a foreign country or international organization for facilities or services sold or provided the government or organization under this chapter. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47302(a), (b)	49 App.:1152.	June 16, 1948, ch. 473, § 3, 62 Stat. 451; Aug. 23, 1958, Pub. L. 85–726, § 1403, 72 Stat. 808.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
47302(c)	49 App.:1154.	June 16, 1948, ch. 473, § 5, 62 Stat. 451.
	49 App.:1655(c)(1).	

In this chapter, the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the United States Code.

In this section, the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau of the Department of Commerce'' in section 3, and ''Chief of the Weather Bureau'' in section 5, of the International Aviation Facilities Act (ch. 473, 62 Stat. 451) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), the words ''by contract or otherwise'' are omitted as surplus. The words ''airport property and airway property (except meteorological facilities)'' and ''meteorological facilities'' are substituted for ''within their respective fields'' for clarity.

In subsection (b), the words ''for the airport'' are substituted for ''for such purpose'' for clarity. The words ''by the Congress'' are omitted as surplus.

In subsection (c), the words ''on behalf of the United States'' are omitted as surplus. The words ''sold or provided'' are substituted for ''supplied or . . . performed'' for consistency in this chapter. The words ''by the Secretary of Transportation or the Secretary of Commerce, either directly or indirectly'' and ''the authority of'' are omitted as surplus. The words ''or the Civil Aeronautics Act of 1938, as amended'' are omitted as obsolete because the Act was repealed by section 1401(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 806). The words ''including the operation of airport property and airway property in such countries, the training of foreign nationals, the rendering of technical assistance and advice to such countries, and the performance of other similar services'' are omitted as being included in ''facilities or services sold or provided''. The words ''or both'' are substituted for ''or (C) in part as provided under clause (A) and in part as provided under clause (B)'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47304 of this title.

§ 47303. Training foreign citizens

Subject to the concurrence of the Secretary of State, the Secretary of Transportation or Commerce, as appropriate, may train a foreign citizen in a subject related to aeronautics and essential to the orderly and safe operation of civil aircraft. The training may be provided—

(1) directly by the appropriate Secretary or jointly with another department, agency, or instrumentality of the United States Government;

(2) through a public or private agency of the United States (including a State or municipal educational institution); or

(3) through an international organization.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47303	49 App.:1153.	June 16, 1948, ch. 473, § 4, 62 Stat. 451.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, before clause (1), the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau'' in section 4 of the International Aviation Facilities Act (ch. 473, 62 Stat. 451) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318). The words ''within or outside the United States'' are omitted as surplus. The word ''citizen'' is substituted for ''nationals'' as being more appropriate. In clause (1), the word ''jointly'' is substituted for ''or in conjunction'' to eliminate unnecessary words. The words ''department, agency, or instrumentality of the United States Government'' are substituted for ''United States Government agency'' for consistency in the revised title and with other titles of the United States Code.

§ 47304. Transfer of airport and airway property

(a) GENERAL AUTHORITY.—When requested by the government of a foreign country or an international organization, the Secretary of Transportation or Commerce, as appropriate, may transfer to the government or organization airport property and airway property operated and maintained under this chapter by the appropriate Secretary in foreign territory. The transfer shall be on terms the appropriate Secretary considers proper, including consideration agreed on through negotiations with the government or organization.

(b) PROPERTY INSTALLED OR CONTROLLED BY MILITARY.—Subject to terms to which the parties agree, the Secretary of a military department may transfer without charge to the Secretary of Transportation airport property and airway property (except meteorological facilities), and to the Secretary of Commerce meteorological facilities, that the Secretary of the military department installed or controls in territory outside the continental United States. The transfer may be made if consistent with the needs of national defense and—

(1) the Secretary of the military department finds that the property or facility is no longer required exclusively for military purposes; and

(2) the Secretary of Transportation or Commerce, as appropriate, decides that the transfer is or may be necessary to carry out this chapter.

(c) REPUBLIC OF PANAMA.—(1) The Secretary of Transportation may provide, operate, and maintain facilities and services for air navigation, airway communications, and air traffic control in the Republic of Panama subject to—

(A) the approval of the Secretary of Defense; and

(B) each obligation assumed by the United States Government under an agreement between the Government and the Republic of Panama.

(2) The Secretary of a military department may transfer without charge to the Secretary of Transportation property located in the Republic of Panama when the Secretary of Transportation decides that the transfer may be useful in carrying out this chapter.

(3) Subsection (b) of this section (related to the Secretary of Transportation) and section 47302(a) and (b) of this title do not apply in carrying out this subsection.

(d) RETAKING PROPERTY FOR MILITARY REQUIREMENT.—(1) When necessary for a military requirement, the Secretary of a military department immediately may retake property (with any improvements to it) transferred by the Secretary under subsection (b) or (c) of this section. The Secretary shall pay reasonable compensation to each person (or its successor in interest) that made an improvement to the property that was not made at the expense of the Government. The Secretary or a delegate of the Secretary shall decide on the amount of compensation.

(2) On the recommendation of the Secretary of Transportation or Commerce, as appropriate, the Secretary of a military department may decide not to act under paragraph (1) of this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47304(a)	49 App.:1155.	June 16, 1948, ch. 473, §§ 6, 8(a), (b), 62 Stat. 452; Aug. 23, 1958, Pub. L. 85–726, § 1403, 72 Stat. 808.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
47304(b)	49 App.:1157(a), (b).	
	49 App.:1655(c)(1).	
47304(c)(1) ..	49 App.:1156(a), (b).	June 16, 1948, ch. 473, §§ 7, 9, 62 Stat. 452, 453.
	49 App.:1655(c)(1).	
47304(c)(2) ..	49 App.:1156(c).	
	49 App.:1655(c)(1).	
47304(c)(3) ..	49 App.:1156(d).	
47304(d)	49 App.:1158.	
	49 App.:1655(c)(1).	

In this section, the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau'' in sections 6, 8, and 9 of the International Aviation Facilities Act (ch. 473, 62 Stat. 452) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), the words ''including consideration agreed on'' are substituted for ''including provision for receiving, on behalf of the United States, such payment or other consideration for the property so transferred as may be agreed upon'' to eliminate unnecessary words.

In subsections (b) and (c), the words ''Secretary of a military department'' are substituted for ''National Military Establishment'' (subsequently changed to ''department of the Department of Defense'' because of section 12(a) of the National Security Act Amendments of 1949 (ch. 412, 63 Stat. 591)) because of 5:102 and 10:101.

In subsection (b), before clause (1), the words ''if any, as may be . . . in specific cases'', ''at its discretion'', and ''therefor'' are omitted as surplus. The word ''except'' is substituted for ''exclusive of'' for consistency in this chapter. The word ''controls'' is substituted for ''in the possession of'' for clarity. The word ''considered'' is omitted as surplus. In clause (2), the words ''the purposes of'' are omitted as surplus.

In subsection (c), reference to the Canal Zone is omitted because of the Panama Canal Treaty of 1977.

In subsection (c)(1), before clause (A), the words ''and to do all things necessary in connection with the'' are omitted as surplus. The word ''airway'' is added for consistency in this chapter. In clause (B), the words ''treaty, convention, or'' are omitted as surplus.

In subsection (c)(2), the words ''in its discretion'', ''therefor'', ''airport property or airway property or other real or personal'', and ''the purposes of'' are omitted as surplus.

In subsection (d)(1), the words ''as determined by the Secretary of the department which made the transfer'' are omitted as surplus. The words ''(with any improvements to it)'' are substituted for ''together with any improvements or additions made thereto'' to eliminate unnecessary words. The words ''or persons'' are omitted because of 1:1.

In subsection (d)(2), the words ''decide not to act'' are substituted for ''in any case . . . waive any right or privilege conferred or reserved'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47302 of this title.

§ 47305. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Transportation shall consolidate, operate, protect, maintain, and improve airport property and airway property (except meteorological facilities), and the Secretary of Commerce may consolidate, operate, protect, maintain, and improve meteorological facilities, that the appropriate Secretary has acquired and that are located in territory outside the continental United States. In carrying out this section, the appropriate Secretary may—

(1) adapt the property or facility to the needs of civil aeronautics;

(2) lease the property or facility for not more than 20 years;

(3) make a contract, or provide directly, for facilities and services;

(4) make reasonable charges for aeronautical services; and

(5) acquire an interest in property.

(b) CREDITING APPROPRIATIONS.—Money received from the direct sale or charge that the Secretary of Transportation or Commerce, as appropriate, decides is equivalent to the cost of facilities and services sold or provided under subsection (a)(3) and (4) of this section is credited to the appropriation from which the cost was paid. The balance shall be deposited in the Treasury as miscellaneous receipts.

(c) USING OTHER GOVERNMENT FACILITIES AND SERVICES.—To carry out this chapter and to use personnel and facilities of the United States Government most advantageously and without unnecessary duplication, the Secretary of Transportation or Commerce, as appropriate, shall request, when practicable, to use a facility or service of an appropriate department, agency, or instrumentality of the Government on a reimbursable basis. A department, agency, or instrumentality receiving a request under this section may provide the facility or service.

(d) ADVERTISING NOT REQUIRED.—Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply to a lease or contract made by the Secretary of Transportation or Commerce under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1282.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47305(a)	49 App.:1159(a) (1st sentence), (b).	June 16, 1948, ch. 473, § 10(a) (1st sentence), (b)–(d), 62 Stat. 453, 454.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
47305(b)	49 App.:1159(c).	
	49 App.:1655(c)(1).	
47305(c)	49 App.:1160.	June 16, 1948, ch. 473, § 12, 62 Stat. 454; Aug. 23, 1958, Pub. L. 85–726, § 1403, 72 Stat. 808; Jan. 3, 1975, Pub. L. 93–623, § 3, 88 Stat. 2103.
	49 App.:1655(c)(1).	
47305(d)	49 App.:1159(d).	
	49 App.:1655(c)(1).	

In this section, the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau'' in section 10(b)–(d), and for ''Chief of the Weather Bureau'' and ''Weather Bureau'' in section 12, of the International Aviation Facilities Act (ch. 473, 62 Stat. 454) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), before clause (1), the words ''do and perform, by contract or otherwise, all acts and things necessary or incident to'' and ''pursuant to this chapter or any other provision of law'' are omitted as surplus. In clause (1), the words ''from time to time'' and ''by construction, installation, reengineering, relocation, or otherwise'' are omitted as surplus. The text of 49 App.:1159(a)(2) is omitted as surplus because of 49:322(a). In clause (2), the words ''under such conditions as he may deem proper'' and ''space or'' are omitted as surplus. The words ''for not more than 20 years'' are substituted for ''and for such periods as may be desirable (not to exceed twenty years)'' to eliminate unnecessary words. The words ''for purposes essential or appropriate to their consolidation, operation, protection, and administration under this chapter'' are omitted as surplus. In clause (3), the words ''the sale of fuel, oil, equipment, food and supplies, hotel accommodations, and other'' and ''necessary or desirable for the operation and administration of such properties'' are omitted as surplus. In clause (4), the word ''reasonable'' is substituted for ''just and reasonable'' for consistency in the revised title and with other titles of the United States Code. The words ''(including but not limited to landing fees and fees for the use of communication services)'' are omitted as surplus. In clause (5), the words ''by purchase or otherwise, real or personal'' and ''which he may consider necessary for the purposes of this section'' are omitted as surplus.

In subsection (b), the words ''including handling charges'' are omitted as surplus. The words ''facilities and services sold or provided'' are substituted for ''of the fuel, oil, equipment, food, supplies, services, shelter, or other assistance or services sold or furnished'' for consistency and to eliminate unnecessary words. The words ''under subsection (a)(3) and (4) of this sec-

tion'' are added for clarity. The words ''if any'' are omitted as surplus. The words ''deposited in the Treasury as'' are substituted for ''credited to'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''use personnel and facilities of the United States Government most advantageously and without unnecessary duplication'' are substituted for ''to the end that personnel and facilities of existing United States Government agencies shall be utilized to the fullest possible advantage and not be unnecessarily duplicated'' to eliminate unnecessary words. The word ''request'' is substituted for ''arrange for'' for clarity. The words ''department, agency, or instrumentality of the Government'' are substituted for ''other United States Government agencies'' for consistency in the revised title and with other titles of the Code. The words ''on a reimbursable basis'' are substituted for ''and to reimburse any such agency for such service out of funds appropriated to the Department of Transportation or the Department of Commerce, as the case may be'' to eliminate unnecessary words.

ANNETTE ISLAND AIRPORT, ALASKA; RENEWAL OF LEASE

Act May 9, 1956, ch. 241, 70 Stat. 146, provided: ''That the Congress of the United States hereby approves the extension, from year to year, until June 30, 1999, of a lease of certain land comprising part of Annette Island, Alaska, for use by the Civil Aeronautics Administration [now the Federal Aviation Administration] as an airport, entered into by the United States of America and the Council of the Annette Island Reserve on December 13, 1948, section 5 of which lease provides that no renewal thereof shall extend beyond June 30, 1959, unless approved by Congress.''

§ 47306. Criminal penalty

A person that knowingly and willfully violates a regulation prescribed by the Secretary of Transportation to carry out this chapter shall be fined under title 18, imprisoned for not more than 6 months, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1283.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47306	49 App.:1159(a) (last sentence).	June 16, 1948, ch. 473, § 10(a) (last sentence), 62 Stat. 454.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code. The words ''if such violation is committed in any area under the civil jurisdiction of the United States'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not more than $500'', and the words ''be deemed guilty of a misdemeanor'' are omitted, for consistency with title 18.

CHAPTER 475—NOISE

SUBCHAPTER I—NOISE ABATEMENT

Sec.
47501. Definitions.
47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure.
47503. Noise exposure maps.
47504. Noise compatibility programs.
47505. Airport noise compatibility planning grants.
47506. Limitations on recovering damages for noise.
47507. Nonadmissibility of noise exposure map and related information as evidence.
47508. Noise standards for air carriers and foreign air carriers providing foreign air transportation.
47509. Research program on quiet aircraft technology for propeller and rotor driven aircraft.
47510. Tradeoff allowance.

SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

47521. Findings.
47522. Definitions.
47523. National aviation noise policy.
47524. Airport noise and access restriction review program.
47525. Decision about airport noise and access restrictions on certain stage 2 aircraft.
47526. Limitations for noncomplying airport noise and access restrictions.
47527. Liability of the United States Government for noise damages.
47528. Prohibition on operating certain aircraft not complying with stage 3 noise levels.
47529. Nonaddition rule.
47530. Nonapplication of sections 47528(a)–(d) and 47529 to aircraft outside the 48 contiguous States.
47531. Penalties for violating sections 47528–47530.
47532. Judicial review.
47533. Relationship to other laws.

AMENDMENTS

1994—Pub. L. 103–429, § 6(72)(B), Oct. 31, 1994, 108 Stat. 4388, added item 47510.

Pub. L. 103–305, title III, § 308(b), Aug. 23, 1994, 108 Stat. 1594, added item 47509.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 47108 of this title.

SUBCHAPTER I—NOISE ABATEMENT

§ 47501. Definitions

In this subchapter—

(1) ''airport'' means a public-use airport as defined in section 47102 of this title.

(2) ''airport operator'' means—

(A) for an airport serving air carriers that have certificates from the Secretary of Transportation, any person holding an airport operating certificate issued under section 44706 of this title; and

(B) for any other airport, the person operating the airport.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47501(1)	49 App.:2101(1).	Feb. 18, 1980, Pub. L. 96–193, § 101(1), 94 Stat. 50; restated Sept. 3, 1982, Pub. L. 97–248, § 524(b)(1), 96 Stat. 696; Dec. 30, 1987, Pub. L. 100–223, § 103(f), 101 Stat. 1489.
	49 App.:2101(3).	Feb. 18, 1980, Pub. L. 96–193, § 101(3), 94 Stat. 50.
47501(2)	49 App.:2101(2).	Feb. 18, 1980, Pub. L. 96–193, § 101(2), 94 Stat. 50; restated Sept. 3, 1982, Pub. L. 97–248, § 524(b)(2), 96 Stat. 696.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, the words ''the term'' are omitted as surplus.

In clause (1), the text of 49 App.:2101(3) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (2), the word ''valid'' is omitted as surplus.

§ 47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure

After consultation with the Administrator of the Environmental Protection Agency and United States Government, State, and interstate agencies that the Secretary of Transportation considers appropriate, the Secretary shall by regulation—

(1) establish a single system of measuring noise that—

(A) has a highly reliable relationship between projected noise exposure and surveyed reactions of individuals to noise; and

(B) is applied uniformly in measuring noise at airports and the surrounding area;

(2) establish a single system for determining the exposure of individuals to noise resulting from airport operations, including noise intensity, duration, frequency, and time of occurrence; and

(3) identify land uses normally compatible with various exposures of individuals to noise.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47502	49 App.:2102.	Feb. 18, 1980, Pub. L. 96–193, §102, 94 Stat. 50.

In this section, before clause (1), the words ''Not later than the last day of the twelfth month which begins after February 18, 1980'' are omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47503 of this title.

§ 47503. Noise exposure maps

(a) SUBMISSION AND PREPARATION.—An airport operator may submit to the Secretary of Transportation a noise exposure map showing the noncompatible uses in each area of the map on the date the map is submitted, a description of estimated aircraft operations during 1985, and how those operations will affect the map. The map shall—

(1) be prepared in consultation with public agencies and planning authorities in the area surrounding the airport; and

(2) comply with regulations prescribed under section 47502 of this title.

(b) REVISED MAPS.—If a change in the operation of an airport will establish a substantial new noncompatible use in an area surrounding the airport, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47503(a)	49 App.:2103(a)(1).	Feb. 18, 1980, Pub. L. 96–193, §103(a), 94 Stat. 50.
47503(b)	49 App.:2103(a)(2).	

In subsection (a), before clause (1), the words ''After the effective date of the regulations promulgated in accordance with section 2102 of this Appendix'' are omitted as executed. The words ''of an airport'' and ''at such airport'' are omitted as surplus. The word ''how'' is substituted for ''the ways, if any, in which'' to eliminate unnecessary words. In clause (1), the words ''planning authorities'' are substituted for ''planning agencies'' for consistency.

In subsection (b), the words ''to the Secretary'' are added for clarity. The words ''after the submission to the Secretary of a noise exposure map under paragraph (1)'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47504, 47505, 47506, 47507 of this title.

§ 47504. Noise compatibility programs

(a) SUBMISSIONS.—(1) An airport operator that submitted a noise exposure map and related information under section 47503(a) of this title may submit a noise compatibility program to the Secretary of Transportation after—

(A) consulting with public agencies and planning authorities in the area surrounding the airport, United States Government officials having local responsibility for the airport, and air carriers using the airport; and

(B) notice and an opportunity for a public hearing.

(2) A program submitted under paragraph (1) of this subsection shall state the measures the operator has taken or proposes to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area covered by the map. The measures may include—

(A) establishing a preferential runway system;

(B) restricting the use of the airport by a type or class of aircraft because of the noise characteristics of the aircraft;

(C) constructing barriers and acoustical shielding and soundproofing public buildings;

(D) using flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(E) acquiring land, air rights, easements, development rights, and other interests to ensure that the property will be used in ways compatible with airport operations.

(b) APPROVALS.—(1) The Secretary shall approve or disapprove a program submitted under subsection (a) of this section (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) not later

than 180 days after receiving it. The Secretary shall approve the program (except as the program is related to flight procedures referred to in subsection (a)(2)(D)) if the program—

(A) does not place an unreasonable burden on interstate or foreign commerce;

(B) is reasonably consistent with achieving the goal of reducing noncompatible uses and preventing the introduction of additional noncompatible uses; and

(C) provides for necessary revisions because of a revised map submitted under section 47503(b) of this title.

(2) A program (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) is deemed to be approved if the Secretary does not act within the 180-day period.

(3) The Secretary shall submit any part of a program related to flight procedures referred to in subsection (a)(2)(D) of this section to the Administrator of the Federal Aviation Administration. The Administrator shall approve or disapprove that part of the program.

(c) GRANTS.—(1) The Secretary may incur obligations to make grants from amounts available under section 48103 of this title to carry out a project under a part of a noise compatibility program approved under subsection (b) of this section. A grant may be made to—

(A) an airport operator submitting the program; and

(B) a unit of local government in the area surrounding the airport, if the Secretary decides the unit is able to carry out the project.

(2) SOUNDPROOFING AND ACQUISITION OF CERTAIN RESIDENTIAL BUILDINGS AND PROPERTIES.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title—

(A) for projects to soundproof residential buildings—

(i) if the airport operator received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;

(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;

(B) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof residential buildings located on residential properties, and to acquire residential properties, at which noise levels are not compatible with normal operations of an airport—

(i) if the airport operator amended an existing local aircraft noise regulation during calendar year 1993 to increase the maximum permitted noise levels for scheduled air carrier aircraft as a direct result of implementation of revised aircraft noise departure procedures mandated for aircraft safety purposes by the Administrator of the Federal Aviation Administration for standardized application at airports served by scheduled air carriers;

(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;

(C) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to carry out any part of a program developed before February 18, 1980, or before implementing regulations were prescribed, if the Secretary decides the program is substantially consistent with reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and the purposes of this chapter will be furthered by promptly carrying out the program; and

(D) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof a building in the noise impact area surrounding the airport that is used primarily for educational or medical purposes and that the Secretary decides is adversely affected by airport noise.

(3) An airport operator may agree to make a grant made under paragraph (1)(A) of this subsection available to a public agency in the area surrounding the airport if the Secretary decides the agency is able to carry out the project.

(4) The Government's share of a project for which a grant is made under this subsection is the greater of—

(A) 80 percent of the cost of the project; or

(B) the Government's share that would apply if the amounts available for the project were made available under subchapter I of chapter 471 of this title for a project at the airport.

(5) The provisions of subchapter I of chapter 471 of this title related to grants apply to a grant made under this chapter, except—

(A) section 47109(a) and (b) of this title; and

(B) any provision that the Secretary decides is inconsistent with, or unnecessary to carry out, this chapter.

(d) GOVERNMENT RELIEF FROM LIABILITY.—The Government is not liable for damages from aviation noise because of action taken under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1285; Pub. L. 103–305, title I, § 119, Aug. 23, 1994, 108 Stat. 1580; Pub. L. 103–429, § 6(71), Oct. 31, 1994, 108 Stat. 4387.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47504(a)	49 App.:2104(a).	Feb. 18, 1980, Pub. L. 96–193, § 104(a), 94 Stat. 51; Dec. 30, 1987, Pub. L. 100–223, § 301(a), 101 Stat. 1523.
47504(b)	49 App.:2104(b).	Feb. 18, 1980, Pub. L. 96–193, § 104(b), (d), 94 Stat. 52, 53.
47504(c)	49 App.:2104(c).	Feb. 18, 1980, Pub. L. 96–193, § 104(c), 94 Stat. 52; Sept. 3, 1982, Pub. L. 97–248, § 524(b)(4), 96 Stat. 696; Dec. 30, 1987, Pub. L. 100–223, § 301(b), (c), 101 Stat. 1523; Oct. 28, 1991, Pub. L. 102–143, § 336, 105 Stat. 947.

HISTORICAL AND REVISION NOTES—CONTINUED

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47504(d)	49 App.:2104(d).	

In subsection (a)(1)(A), the words ''the officials of'' are omitted as surplus. The words ''planning authorities'' are substituted for ''planning agencies'' for consistency.

In subsection (a)(2)(A), the word ''establishing'' is substituted for ''the implementation of'' for consistency.

In subsection (a)(2)(B), the words ''the implementation of'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''to him'' and ''the measures to be undertaken in carrying out'' are omitted as surplus. In clause (B), the word ''achieving'' is substituted for ''obtaining'' for clarity. The word ''existing'' is omitted as surplus.

Subsection (b)(2) is substituted for 49 App.:2104(b) (3d sentence) to eliminate unnecessary words.

In subsection (c)(1)(B) and (2), the words ''for which grant applications are made in accordance with such noise compatibility programs'' are omitted as surplus.

In subsection (c)(1), before clause (A), the words ''incur obligations to'' and ''further . . . under this section'' are omitted as surplus. In clause (C), the words ''to carry out any part of a program'' are substituted for ''any project to carry out a noise compatibility program'', and the words ''or before implementing regulations were prescribed'' are substituted for ''or the promulgation of its implementing regulations'', for clarity and consistency. The words ''the purposes of'' before ''reducing'' are omitted as surplus. The word ''noncompatible'' is added after ''existing'' for clarity and consistency. In clause (D), the words ''for any project'' and ''determined to be'' are omitted as surplus.

In subsection (c)(2), the words ''in turn'' are omitted as surplus.

In subsection (c)(4), before clause (A), the words ''All of'' and ''made under section 505 of that Act'' are omitted as surplus. The word ''except'' is substituted for ''unless'' for clarity. In clause (1), the words ''relating to United States share of project costs'' are omitted as surplus. In clause (2), the words ''the purposes of'' are omitted as surplus.

In subsection (d), the words ''by the Secretary or the Administrator of the Federal Aviation Administration'' are omitted as surplus.

PUB. L. 103–429

This redesignates 49:47504(c)(1)(C) and (D) as 49:47504(c)(2)(C) and (D) because the subject matter is similar to that of 49:47504(c)(2)(A) and (B) that was added by section 119(2) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1580).

REFERENCES IN TEXT

Section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987, referred to in subsec. (c)(2)(A)(i), is section 301(d)(4)(B) of Pub. L. 100–223, which was set out as a note under section 2104 of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379.

AMENDMENTS

1994—Subsec. (c)(1)(A). Pub. L. 103–429, § 6(71)(A), inserted ''and'' after semicolon at end.

Subsec. (c)(1)(B). Pub. L. 103–429, § 6(71)(B), substituted a period for semicolon at end.

Subsec. (c)(1)(C), (D). Pub. L. 103–429, § 6(71)(C), redesignated par. (1)(C) as (2)(C) and (1)(D) as (2)(D).

Subsec. (c)(2). Pub. L. 103–305, § 119(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (c)(2)(A)(iii). Pub. L. 103–429, § 6(71)(D), struck out ''and'' after semicolon at end.

Subsec. (c)(2)(B)(iii). Pub. L. 103–429, § 6(71)(E), substituted a semicolon for period at end.

Subsec. (c)(2)(C), (D). Pub. L. 103–429, § 6(71)(F), substituted ''to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection'' for ''an airport operator or unit of local government referred to in clause (A) or (B) of this paragraph''.

Pub. L. 103–429, § 6(71)(C), redesignated par. (1)(C) as (2)(C) and (1)(D) as (2)(D).

Subsec. (c)(3). Pub. L. 103–305, § 119(1), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (c)(4). Pub. L. 103–305, § 119(3), struck out ''paragraph (1) of'' before ''this subsection'' in introductory provisions.

Pub. L. 103–305, § 119(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 103–305, § 119(1), redesignated par. (4) as (5).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40117, 47117, 47505, 48103 of this title.

§ 47505. Airport noise compatibility planning grants

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant to a sponsor of an airport to develop, for planning purposes, information necessary to prepare and submit—

(1) a noise exposure map and related information under section 47503 of this title, including the cost of obtaining the information; or

(2) a noise compatibility program under section 47504 of this title.

(b) AVAILABILITY OF AMOUNTS AND GOVERNMENT'S SHARE OF COSTS.—A grant under subsection (a) of this section may be made from amounts available under section 48103 of this title. The United States Government's share of the grant is the percent for which a project for airport development at an airport would be eligible under section 47109(a) and (b) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1286.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47505	49 App.:2103(b).	Feb. 18, 1980, Pub. L. 96–193, § 103(b), 94 Stat. 51; restated Sept. 3, 1982, Pub. L. 97–248, § 524(b)(3), 96 Stat. 696.

In subsection (a), before clause (1), the words ''incur obligations to'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40117, 47117, 48103 of this title.

§ 47506. Limitations on recovering damages for noise

(a) GENERAL LIMITATIONS.—A person acquiring an interest in property after February 18, 1980, in an area surrounding an airport for which a noise exposure map has been submitted under section 47503 of this title and having actual or constructive knowledge of the existence of the map may recover damages for noise attributable to the airport only if, in addition to any other elements for recovery of damages, the person shows that—

(1) after acquiring the interest, there was a significant—

(A) change in the type or frequency of aircraft operations at the airport;

(B) change in the airport layout;

(C) change in flight patterns; or

(D) increase in nighttime operations; and

(2) the damages resulted from the change or increase.

(b) CONSTRUCTIVE KNOWLEDGE.—Constructive knowledge of the existence of a map under subsection (a) of this section shall be imputed, at a minimum, to a person if—

(1) before the person acquired the interest, notice of the existence of the map was published at least 3 times in a newspaper of general circulation in the county in which the property is located; or

(2) the person is given a copy of the map when acquiring the interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1286.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47506	49 App.:2107.	Feb. 18, 1980, Pub. L. 96–193, § 107, 94 Stat. 53.

In subsection (a)(2), the words ''for which recovery is sought have'' are omitted as surplus.

§ 47507. Nonadmissibility of noise exposure map and related information as evidence

No part of a noise exposure map or related information described in section 47503 of this title that is submitted to, or prepared by, the Secretary of Transportation and no part of a list of land uses the Secretary identifies as normally compatible with various exposures of individuals to noise may be admitted into evidence or used for any other purpose in a civil action asking for relief for noise resulting from the operation of an airport.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47507	49 App.:2106.	Feb. 18, 1980, Pub. L. 96–193, § 106, 94 Stat. 53.

The words ''land uses which are'' are omitted as surplus. The words ''civil action'' are substituted for ''suit or action'' for consistency in the revised title and with other titles of the United States Code. The words ''damages or other'' are omitted as surplus.

§ 47508. Noise standards for air carriers and foreign air carriers providing foreign air transportation

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall require each air carrier and foreign air carrier providing foreign air transportation to comply with noise standards—

(1) the Secretary prescribed for new subsonic aircraft in regulations of the Secretary in effect on January 1, 1977; or

(2) of the International Civil Aviation Organization that are substantially compatible with standards of the Secretary for new subsonic aircraft in regulations of the Secretary at parts 36 and 91 of title 14, Code of Federal Regulations, prescribed between January 2, 1977, and January 1, 1982.

(b) COMPLIANCE AT PHASED RATE.—The Secretary shall require each air carrier and foreign air carrier providing foreign air transportation to comply with the noise standards at a phased rate similar to the rate for aircraft registered in the United States.

(c) NONDISCRIMINATION.—The requirement for air carriers providing foreign air transportation may not be more stringent than the requirement for foreign air carriers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47508(a)	49 App.:2122(a) (1st sentence words before last comma, last sentence).	Feb. 18, 1980, Pub. L. 96–193, § 302(a), 94 Stat. 56.
47508(b)	49 App.:2122(a) (1st sentence words after last comma).	
47508(c)	49 App.:2122(a) (2d sentence).	

In this section, the word ''providing'' is substituted for ''engaging in'' for consistency in the revised title.

In subsection (a), the words ''acting through the Administrator'' and ''acting through the Administrator of the Federal Aviation Administration (14 CFR part 36)'' are omitted for consistency. Section 6(c)(1) of the Department of Transportation Act (Public Law 89–670, 80 Stat. 938) transferred all duties and powers of the Federal Aviation Agency and the Administrator to the Secretary of Transportation. However, the Secretary was to carry out certain provisions through the Administrator. In addition, various laws enacted since then have vested duties and powers in the Administrator. All provisions of law the Secretary is required to carry out through the Administrator are included in 49:106(g). Before clause (1), the words ''If, by January 1, 1980, the International Civil Aviation Organization (hereafter referred to as 'ICAO') does not reach an agreement'' and ''commence a rulemaking to'' and 49 App.:2122(a) (last sentence) are omitted as executed. In clause (1), the words ''as such regulations were'' are omitted as surplus. In clause (2), the words ''on noise standards and an international schedule'' and ''(annex 16)'' are omitted as surplus. The words ''of the Secretary for new subsonic aircraft in regulations of the Secretary at parts 36 and 91 of title 14, Code of Federal Regulations, prescribed between January 2, 1977, and January 1, 1982'' are substituted for ''set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91) during the 5-year period thereafter'' for clarity and consistency.

In subsection (b), the words ''in effect'' are omitted as surplus.

AIRCRAFT NOISE RESEARCH PROGRAM

Pub. L. 102–581, title III, § 304, Oct. 31, 1992, 106 Stat. 4896, provided that:

''(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a research program to develop new technologies for quieter subsonic jet aircraft engines and airframes.

''(b) GOAL.—The goal of the research program established by subsection (a) is to develop by the year 2000

technologies for subsonic jet aircraft engines and airframes which would permit a subsonic jet aircraft to operate at reduced noise levels.

''(c) PARTICIPATION.—In carrying out the program established by subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of representatives of the aviation industry and academia.

''(d) REPORT TO CONGRESS.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress, on an annual basis during the term of the program established by subsection (a), a report on the progress being made under the program toward meeting the goal described in subsection (b).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 47509. Research program on quiet aircraft technology for propeller and rotor driven aircraft

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall conduct a study to identify technologies for noise reduction of propeller driven aircraft and rotorcraft.

(b) GOAL.—The goal of the study conducted under subsection (a) is to determine the status of research and development now underway in the area of quiet technology for propeller driven aircraft and rotorcraft, including technology that is cost beneficial, and to determine whether a research program to supplement existing research activities is necessary.

(c) PARTICIPATION.—In conducting the study required under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of the Department of Defense, the Department of the Interior, the airtour industry, the aviation industry, academia and other appropriate groups.

(d) REPORT.—Not less than 280 days after the date of the enactment of this section, the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall transmit to Congress a report on the results of the study required under subsection (a).

(e) RESEARCH AND DEVELOPMENT PROGRAM.—If the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration determine that additional research and development is necessary and would substantially contribute to the development of quiet aircraft technology, then the agencies shall conduct an appropriate research program in consultation with the entities listed in subsection (c) to develop safe, effective, and economical noise reduction technology (including technology that can be applied to existing propeller driven aircraft and rotorcraft) that would result in aircraft that operate at substantially reduced levels of noise to reduce the impact of such aircraft and rotorcraft on the resources of national parks and other areas.

(Added Pub. L. 103–305, title III, § 308(a), Aug. 23, 1994, 108 Stat. 1593.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (d), is the date of enactment of Pub. L. 103–305, which was approved Aug. 23, 1994.

§ 47510. Tradeoff allowance

Notwithstanding another law or a regulation prescribed or order issued under that law, the tradeoff provisions contained in appendix C of part 36 of title 14, Code of Federal Regulations, apply in deciding whether an aircraft complies with subpart I of part 91 of title 14.

(Added Pub. L. 103–429, § 6(72)(A), Oct. 31, 1994, 108 Stat. 4387.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47510	49 App.:2125.	Feb. 18, 1980, Pub. L. 96–193, § 305, 94 Stat. 57.

The word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The words ''subpart I of part 91'' are substituted for ''subpart E of part 91'' because of the restatement of part 91. See 54 Fed. Reg. 34321 (Aug. 18, 1989).

SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

§ 47521. Findings

Congress finds that—

(1) aviation noise management is crucial to the continued increase in airport capacity;

(2) community noise concerns have led to uncoordinated and inconsistent restrictions on aviation that could impede the national air transportation system;

(3) a noise policy must be carried out at the national level;

(4) local interest in aviation noise management shall be considered in determining the national interest;

(5) community concerns can be alleviated through the use of new technology aircraft and the use of revenues, including those available from passenger facility fees, for noise management;

(6) revenues controlled by the United States Government can help resolve noise problems and carry with them a responsibility to the national airport system;

(7) revenues derived from a passenger facility fee may be applied to noise management and increased airport capacity; and

(8) a precondition to the establishment and collection of a passenger facility fee is the prescribing by the Secretary of Transportation of a regulation establishing procedures for reviewing airport noise and access restrictions on operations of stage 2 and stage 3 aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47521	49 App.:2151.	Nov. 5, 1990, Pub. L. 101–508, § 9302, 104 Stat. 1388–378.

§ 47522. Definitions

In this subchapter—

(1) ''air carrier'', ''air transportation'', and ''United States'' have the same meanings given those terms in section 40102(a) of this title.

(2) ''stage 3 noise levels'' means the stage 3 noise levels in part 36 of title 14, Code of Federal Regulations, in effect on November 5, 1990.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47522	49 App.:2157(h).	Nov. 5, 1990, Pub. L. 101–508, § 9308(h), 104 Stat. 1388–384.

The definitions are made applicable to all of subchapter II, rather than only to those provisions based on 49 App.:2157 as in the source provisions, because the defined terms appear in several sections of subchapter II and it is assumed they are intended to have the same meaning in each of those sections.

§ 47523. National aviation noise policy

(a) GENERAL REQUIREMENTS.—Not later than July 1, 1991, the Secretary of Transportation shall establish by regulation a national aviation noise policy that considers this subchapter, including the phaseout and nonaddition of stage 2 aircraft as provided in this subchapter and dates for carrying out that policy and reporting requirements consistent with this subchapter and law existing as of November 5, 1990.

(b) DETAILED ECONOMIC ANALYSIS.—The policy shall be based on a detailed economic analysis of the impact of the phaseout date for stage 2 aircraft on competition in the airline industry, including—

(1) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(2) the impact of competition in the airline and air cargo industries;

(3) the impact on nonhub and small community air service; and

(4) the impact on new entry into the airline industry.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47523	49 App.:2152.	Nov. 5, 1990, Pub. L. 101–508, § 9303, 104 Stat. 1388–378.

In this section, the text of 49 App.:2152(c) is omitted as executed.

In subsection (a), the words ''(hereinafter in this chapter referred to as the 'Secretary')'' are omitted because of the restatement. The words ''this subchapter'' (the first time they appear) are substituted for ''the findings, determinations, and provisions of this chapter'' to eliminate unnecessary words.

Subsection (b) is tabulated for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47524 of this title.

§ 47524. Airport noise and access restriction review program

(a) GENERAL REQUIREMENTS.—The national aviation noise policy established under section 47523 of this title shall provide for establishing by regulation a national program for reviewing airport noise and access restrictions on the operation of stage 2 and stage 3 aircraft. The program shall provide for adequate public notice and opportunity for comment on the restrictions.

(b) STAGE 2 AIRCRAFT.—Except as provided in subsection (d) of this section, an airport noise or access restriction may include a restriction on the operation of stage 2 aircraft proposed after October 1, 1990, only if the airport operator publishes the proposed restriction and prepares and makes available for public comment at least 180 days before the effective date of the proposed restriction—

(1) an analysis of the anticipated or actual costs and benefits of the existing or proposed restriction;

(2) a description of alternative restrictions;

(3) a description of the alternative measures considered that do not involve aircraft restrictions; and

(4) a comparison of the costs and benefits of the alternative measures to the costs and benefits of the proposed restriction.

(c) STAGE 3 AIRCRAFT.—(1) Except as provided in subsection (d) of this section, an airport noise or access restriction on the operation of stage 3 aircraft not in effect on October 1, 1990, may become effective only if the restriction has been agreed to by the airport proprietor and all aircraft operators or has been submitted to and approved by the Secretary of Transportation after an airport or aircraft operator's request for approval as provided by the program established under this section. Restrictions to which this paragraph applies include—

(A) a restriction on noise levels generated on either a single event or cumulative basis;

(B) a restriction on the total number of stage 3 aircraft operations;

(C) a noise budget or noise allocation program that would include stage 3 aircraft;

(D) a restriction on hours of operations; and

(E) any other restriction on stage 3 aircraft.

(2) Not later than 180 days after the Secretary receives an airport or aircraft operator's request for approval of an airport noise or access restriction on the operation of a stage 3 aircraft, the Secretary shall approve or disapprove the restriction. The Secretary may approve the restriction only if the Secretary finds on the basis of substantial evidence that—

(A) the restriction is reasonable, nonarbitrary, and nondiscriminatory;

(B) the restriction does not create an unreasonable burden on interstate or foreign commerce;

(C) the restriction is not inconsistent with maintaining the safe and efficient use of the navigable airspace;

(D) the restriction does not conflict with a law or regulation of the United States;

(E) an adequate opportunity has been provided for public comment on the restriction; and

(F) the restriction does not create an unreasonable burden on the national aviation system.

(3) Paragraphs (1) and (2) of this subsection do not apply if the Administrator of the Federal Aviation Administration, before November 5, 1990, has formed a working group (outside the process established by part 150 of title 14, Code of Federal Regulations) with a local airport operator to examine the noise impact of air traffic control procedure changes at the airport. However, if an agreement on noise reductions at that airport is made between the airport proprietor and one or more air carriers or foreign air carriers that constitute a majority of the carrier use of the airport, this paragraph applies only to a local action to enforce the agreement.

(4) The Secretary may reevaluate an airport noise or access restriction previously agreed to or approved under this subsection on request of an aircraft operator able to demonstrate to the satisfaction of the Secretary that there has been a change in the noise environment of the affected airport that justifies a reevaluation. The Secretary shall establish by regulation procedures for conducting a reevaluation. A reevaluation—

(A) shall be based on the criteria in paragraph (2) of this subsection; and

(B) may be conducted only after 2 years after a decision under paragraph (2) of this subsection has been made.

(d) NONAPPLICATION.—Subsections (b) and (c) of this section do not apply to—

(1) a local action to enforce a negotiated or executed airport noise or access agreement between the airport operator and the aircraft operators in effect on November 5, 1990;

(2) a local action to enforce a negotiated or executed airport noise or access restriction agreed to by the airport operator and the aircraft operators before November 5, 1990;

(3) an intergovernmental agreement including an airport noise or access restriction in effect on November 5, 1990;

(4) a subsequent amendment to an airport noise or access agreement or restriction in effect on November 5, 1990, that does not reduce or limit aircraft operations or affect aircraft safety;

(5)(A) an airport noise or access restriction adopted by an airport operator not later than October 1, 1990, and stayed as of October 1, 1990, by a court order or as a result of litigation, if any part of the restriction is subsequently allowed by a court to take effect; or

(B) a new restriction imposed by an airport operator to replace any part of a restriction described in subclause (A) of this clause that is disallowed by a court, if the new restriction would not prohibit aircraft operations in effect on November 5, 1990; or

(6) a local action that represents the adoption of the final part of a program of a staged airport noise or access restriction if the initial part of the program was adopted during 1988 and was in effect on November 5, 1990.

(e) GRANT LIMITATIONS.—Beginning on the 91st day after the Secretary prescribes a regulation under subsection (a) of this section, a sponsor of a facility operating under an airport noise or access restriction on the operation of stage 3 aircraft that first became effective after October 1, 1990, is eligible for a grant under section 47104 of this title and is eligible to impose a passenger facility fee under section 40117 of this title only if the restriction has been—

(1) agreed to by the airport proprietor and aircraft operators;

(2) approved by the Secretary as required by subsection (c)(1) of this section; or

(3) rescinded.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47524(a)	49 App.:2153(a)(1).	Nov. 5, 1990, Pub. L. 101–508, § 9304(a)(1)– (2)(C), (3)–(g), 104 Stat. 1388–379.
47524(b)	49 App.:2153(a)(2)(A), (c).	
47524(c)(1) ..	49 App.:2153(a)(2)(B), (b).	
47524(c)(2) ..	49 App.:2153(d).	
47524(c)(3) ..	49 App.:2153(a)(2)(D).	Nov. 5, 1990, Pub. L. 101–508, § 9304(a)(2)(D), 104 Stat. 1388–380; Oct. 31, 1992, Pub. L. 102–581, § 136(a), 106 Stat. 4889.
47524(c)(4) ..	49 App.:2153(f), (g).	
47524(d)	49 App.:2153(a)(2)(C).	
47524(e)	49 App.:2153(e).	

In subsection (a), the words ''shall provide for establishing'' are substituted for ''shall require the establishment . . . of'' as being more appropriate. The words ''in accordance with the provisions of this section'' are omitted as surplus.

In subsection (b), the words ''proposed after October 1, 1990'' are substituted for 49 App.:2153(a)(2)(A) to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words ''not in effect on October 1, 1990'' are substituted for 49 App.:2153(a)(2)(B) to eliminate unnecessary words. In clause (B), the words ''direct or indirect'' are omitted as surplus.

In subsection (c)(2)(A)–(D) and (F), the word ''proposed'' is omitted as surplus. In clause (D), the word ''existing'' is omitted as surplus.

In subsection (c)(4), the words ''that justifies a reevaluation'' are substituted for ''and that a review and reevaluation . . . of the previously approved or agreed to noise restriction is therefore justified'' to eliminate unnecessary words.

In subsection (d)(6), the words ''calendar year'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47525, 47533 of this title.

§ 47525. Decision about airport noise and access restrictions on certain stage 2 aircraft

The Secretary of Transportation shall conduct a study and decide on the application of section 47524(a)–(d) of this title to airport noise and access restrictions on the operation of stage 2 aircraft with a maximum weight of not more than 75,000 pounds. In making the decision, the Secretary shall consider—

(1) noise levels produced by those aircraft relative to other aircraft;

(2) the benefits to general aviation and the need for efficiency in the national air transportation system;

(3) the differences in the nature of operations at airports and the areas immediately surrounding the airports;

(4) international standards and agreements on aircraft noise; and

(5) other factors the Secretary considers necessary.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47525	49 App.:2154.	Nov. 5, 1990, Pub. L. 101–508, § 9305, 104 Stat. 1388–382.

In this section, before clause (1), the words ''conduct a study and decide on'' are substituted for ''determine by a study'' for clarity. The words ''with a maximum weight of not more than'' are substituted for ''weighing less than'' for consistency with sections 47528 and 47529 of the revised title.

§ 47526. Limitations for noncomplying airport noise and access restrictions

Unless the Secretary of Transportation is satisfied that an airport is not imposing an airport noise or access restriction not in compliance with this subchapter, the airport may not—

(1) receive money under subchapter I of chapter 471 of this title; or

(2) impose a passenger facility fee under section 40117 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47526	49 App.:2156.	Nov. 5, 1990, Pub. L. 101–508, § 9307, 104 Stat. 1388–382.

In this section, before clause (1), the words ''Under no conditions'' are omitted as surplus. In clause (2), the words ''or collect'' are omitted as surplus.

§ 47527. Liability of the United States Government for noise damages

When a proposed airport noise or access restriction is disapproved under this subchapter, the United States Government shall assume liability for noise damages only to the extent that a taking has occurred as a direct result of the disapproval. The United States Court of Federal Claims has exclusive jurisdiction of a civil action under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47527	49 App.:2155.	Nov. 5, 1990, Pub. L. 101–508, § 9306, 104 Stat. 1388–382.

The words ''under this subchapter'' are added for clarity. The words ''has exclusive jurisdiction of a civil action under this section'' are substituted for ''Action for the resolution of such a case shall be brought solely in'' for clarity and consistency. The words ''Court of Federal Claims'' are substituted for ''Claims Court'' to reflect the change of name of the Court by section 902(b) of the Federal Courts Administration Act of 1992 (Public Law 102–572, 106 Stat. 4516).

§ 47528. Prohibition on operating certain aircraft not complying with stage 3 noise levels

(a) PROHIBITION.—Except as provided in subsection (b) of this section and section 47530 of this title, a person may operate after December 31, 1999, a civil subsonic turbojet with a maximum weight of more than 75,000 pounds to or from an airport in the United States only if the Secretary of Transportation finds that the aircraft complies with the stage 3 noise levels.

(b) WAIVERS.—(1) If, not later than July 1, 1999, at least 85 percent of the aircraft used by an air carrier to provide air transportation comply with the stage 3 noise levels, the carrier may apply for a waiver of subsection (a) of this section for the remaining aircraft used by the carrier to provide air transportation. The application must be filed with the Secretary not later than January 1, 1999, and must include a plan with firm orders for making all aircraft used by the carrier to provide air transportation comply with the noise levels not later than December 31, 2003.

(2) The Secretary may grant a waiver under this subsection if the Secretary finds it would be in the public interest. In making the finding, the Secretary shall consider the effect of granting the waiver on competition in the air carrier industry and on small community air service.

(3) A waiver granted under this subsection may not permit the operation of stage 2 aircraft in the United States after December 31, 2003.

(c) SCHEDULE FOR PHASED-IN COMPLIANCE.—The Secretary shall establish by regulation a schedule for phased-in compliance with subsection (a) of this section. The phase-in period shall begin on November 5, 1990, and end before December 31, 1999. The regulations shall establish interim compliance dates. The schedule for phased-in compliance shall be based on—

(1) a detailed economic analysis of the impact of the phaseout date for stage 2 aircraft on competition in the airline industry, including—

(A) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(B) the impact of competition in the airline and air cargo industries;

(C) the impact on nonhub and small community air service; and

(D) the impact on new entry into the airline industry; and

(2) an analysis of the impact of aircraft noise on individuals residing near airports.

(d) ANNUAL REPORT.—Beginning with calendar year 1992—

(1) each air carrier shall submit to the Secretary an annual report on the progress the carrier is making toward complying with the requirements of this section and regulations prescribed under this section; and

(2) the Secretary shall submit to Congress an annual report on the progress being made toward that compliance.

(e) HAWAIIAN OPERATIONS.—(1) In this subsection, ''turnaround service'' means a flight between places only in Hawaii.

(2)(A) An air carrier or foreign air carrier may not operate in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, a greater number of stage 2 aircraft with a maximum weight of more than 75,000 pounds than it operated in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, on November 5, 1990.

(B) An air carrier that provided turnaround service in Hawaii on November 5, 1990, using stage 2 aircraft with a maximum weight of more than 75,000 pounds may include in the number of aircraft authorized under subparagraph (A) of this paragraph all stage 2 aircraft with a maximum weight of more than 75,000 pounds that were owned or leased by that carrier on that date, whether or not the aircraft were operated by the carrier on that date.

(3) An air carrier may provide turnaround service in Hawaii using stage 2 aircraft with a maximum weight of more than 75,000 pounds only if the carrier provided the service on November 5, 1990.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47528(a)	49 App.:2157(a).	Nov. 5, 1990, Pub. L. 101–508, § 9308(a)–(c), (g), 104 Stat. 1388–382, 1388–383.
47528(b)	49 App.:2157(b).	
47528(c)	49 App.:2157(c).	
47528(d)	49 App.:2157(g).	
47528(e)	49 App.:2157(i).	Nov. 5, 1990, Pub. L. 101–508, 104 Stat. 1388–382, § 9308(i); added Oct. 28, 1991, Pub. L. 102–143, § 349(b), 105 Stat. 949.

In subsection (e), the words ''the State of'' are omitted as surplus. The words ''place'' and ''places'' are substituted for ''point'' and ''points'' for consistency in title the revised title.

In subsection (e)(1), the words ''the operation of'' are omitted as surplus. The words ''places only in Hawaii'' are substituted for ''two or more points, all of which are within the State of Hawaii'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47530, 47531, 47532 of this title.

§ 47529. Nonaddition rule

(a) GENERAL LIMITATIONS.—Except as provided in subsection (b) of this section and section 47530 of this title, a person may operate a civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds that is imported into the United States after November 4, 1990, only if the aircraft—

(1) complies with the stage 3 noise levels; or

(2) was purchased by the person importing the aircraft into the United States under a legally binding contract made before November 5, 1990.

(b) EXEMPTIONS.—The Secretary of Transportation may provide an exemption from subsection (a) of this section to permit a person to obtain modifications to an aircraft to meet the stage 3 noise levels.

(c) AIRCRAFT DEEMED NOT IMPORTED.—In this section, an aircraft is deemed not to have been imported into the United States if the aircraft—

(1) was owned on November 5, 1990, by—

(A) a corporation, trust, or partnership organized under the laws of the United States or a State (including the District of Columbia);

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

(C) an entity that is owned or controlled by a corporation, trust, partnership, or individual described in subclause (A) or (B) of this clause; and

(2) enters the United States not later than 6 months after the expiration of a lease agreement (including any extension) between an owner described in clause (1) of this subsection and a foreign carrier.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1292.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47529	49 App.:2158.	Nov. 5, 1990, Pub. L. 101–508, § 9309, 104 Stat. 1388–384; Oct. 31, 1992, Pub. L. 102–581, § 136(b), 106 Stat. 4889.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47530, 47531, 47532 of this title.

§ 47530. Nonapplication of sections 47528(a)–(d) and 47529 to aircraft outside the 48 contiguous States

Sections 47528(a)–(d) and 47529 of this title do not apply to aircraft used only to provide air transportation outside the 48 contiguous States. A civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds that is imported into a noncontiguous State or a territory or possession of the United States after November 4, 1990, may be used to provide air transportation in the 48 contiguous States only if the aircraft complies with the stage 3 noise levels.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47530	49 App.:2157(d).	Nov. 5, 1990, Pub. L. 101–508, § 9308(d), 104 Stat. 1388–383; Oct. 28, 1991, Pub. L. 102–143, § 349(a), 105 Stat. 949.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47528, 47529, 47531, 47532 of this title.

§ 47531. Penalties for violating sections 47528–47530

A person violating section 47528, 47529, or 47530 of this title or a regulation prescribed under any of those sections is subject to the same civil

penalties and procedures under chapter 463 of this title as a person violating section 44701(a) or (b) or any of sections 44702–44716 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1293; Pub. L. 103–429, § 6(73), Oct. 31, 1994, 108 Stat. 4388.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47531	49 App.:2157(e).	Nov. 5, 1990, Pub. L. 101–508, § 9308(e), 104 Stat. 1388–383.

PUB. L. 103–429

This amends 49:47531 to correct a grammatical error and erroneous cross-references.

AMENDMENTS

1994—Pub. L. 103–429 substituted ''section 47528'' for ''sections 47528'' and inserted ''any of'' before ''those'' and ''any of sections'' before ''44702–44716''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47532 of this title.

§ 47532. Judicial review

An action taken by the Secretary of Transportation under any of sections 47528–47531 of this title is subject to judicial review as provided under section 46110 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1293; Pub. L. 103–429, § 6(74), Oct. 31, 1994, 108 Stat. 4388.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47532	49 App.:2157(f).	Nov. 5, 1990, Pub. L. 101–508, § 9308(f), 104 Stat. 1388–383.

PUB. L. 103–429

This amends 49:47532 to correct an erroneous cross-reference.

AMENDMENTS

1994—Pub. L. 103–429 inserted ''any of'' before ''sections''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

§ 47533. Relationship to other laws

Except as provided by section 47524 of this title, this subchapter does not affect—

(1) law in effect on November 5, 1990, on airport noise or access restrictions by local authorities;

(2) any proposed airport noise or access restriction at a general aviation airport if the airport proprietor has formally initiated a regulatory or legislative process before October 2, 1990; or

(3) the authority of the Secretary of Transportation to seek and obtain legal remedies the Secretary considers appropriate, including injunctive relief.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47533	49 App.:2153(h).	Nov. 5, 1990, Pub. L. 101–508, § 9304(h), 104 Stat. 1388–382.

PART C—FINANCING

CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

Sec.
48101. Air navigation facilities.
48102. Research and development.
48103. Airport planning and development and noise compatibility planning and programs.
48104. Certain direct costs and joint air navigation services.
48105. Weather reporting services.
48106. Airway science curriculum grants.
48107. Civil aviation security research and development.
48108. Availability and uses of amounts.
48109. Submission of budget information and legislative recommendations and comments.
48110. Facilities for advanced training of maintenance technicians for air carrier aircraft.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 47108, 49101, 49102, 49105 of this title.

§ 48101. Air navigation facilities

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Not more than a total of the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title:

(1) For the fiscal years ending September 30, 1991–1993, $8,200,000,000.

(2) For the fiscal years ending September 30, 1991–1994, $10,724,000,000.

(3) For the fiscal years ending September 30, 1991–1995, $13,394,000,000.

(4) For the fiscal years ending September 30, 1991–1996, $16,129,000,000.

(b) MAJOR AIRWAY CAPITAL INVESTMENT PLAN CHANGES.—If the Secretary decides that it is necessary to augment or substantially modify elements of the Airway Capital Investment Plan referred to in section 44501(b) of this title (including a decision that it is necessary to establish more than 23 area control facilities), not more than $100,000,000 may be appropriated to the Secretary out of the Fund for the fiscal year ending September 30, 1994, to carry out the augmentation or modification.

(c) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1294; Pub. L. 103–305, title I, § 102(a), Aug. 23, 1994, 108 Stat. 1571.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48101(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2205(a)(1) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 506(a)(1), 96 Stat. 677; restated Dec. 30, 1987, Pub. L. 100–223, § 105(a)(2), 101 Stat. 1490; Nov. 5, 1990, Pub. L. 101–508, § 9105(b), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 103(a), 106 Stat. 4877.
48101(b)	49 App.:2202(a)(24). 49 App.:2205(a)(2) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 506(a)(2), 96 Stat. 677; Dec. 30, 1987, Pub. L. 100–223, § 105(a)(2), 101 Stat. 1490; restated Oct. 31, 1992, Pub. L. 102–581, § 103(b), 106 Stat. 4877.
48101(c)	49 App.:2205(a)(1) (last sentence), (2) (last sentence).	

In subsection (a), the words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter. The words ''for fiscal years beginning after September 30, 1990'' and ''$2,500,000,000 for fiscal year 1991'' are omitted as obsolete.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–305, § 102(a)(1), substituted ''For'' for ''for''.

Subsec. (a)(2). Pub. L. 103–305, § 102(a)(2), substituted ''For'' for ''for'' and ''$10,724,000,000'' for ''$11,100,000,000''.

Subsec. (a)(3). Pub. L. 103–305, § 102(a)(3), substituted ''For'' for ''for'' and ''$13,394,000,000'' for ''$14,000,000,000''.

Subsec. (a)(4). Pub. L. 103–305, § 102(a)(4), added par. (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44502, 48104, 48108, 48109 of this title.

§ 48102. Research and development

(a) AUTHORIZATION OF APPROPRIATIONS.—Not more than the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out sections 44504, 44505, 44507, 44509, and 44511–44513 of this title:

(1) for fiscal year 1995—

(A) $7,673,000 for management and analysis projects and activities;

(B) $80,901,000 for capacity and air traffic management technology projects and activities;

(C) $39,242,000 for communications, navigation, and surveillance projects and activities;

(D) $2,909,000 for weather projects and activities;

(E) $8,660,000 for airport technology projects and activities;

(F) $51,004,000 for aircraft safety technology projects and activities;

(G) $36,604,000 for system security technology projects and activities;

(H) $26,484,000 for human factors and aviation medicine projects and activities;

(I) $8,124,000 for environment and energy projects and activities; and

(J) $5,199,000 for innovative/cooperative research projects and activities; and

(2) for fiscal year 1996—

(A) $8,056,000 for management and analysis projects and activities;

(B) $84,946,000 for capacity and air traffic management technology projects and activities;

(C) $41,204,000 for communications, navigation, and surveillance projects and activities;

(D) $3,054,000 for weather projects and activities;

(E) $9,093,000 for airport technology projects and activities;

(F) $53,554,000 for aircraft safety technology projects and activities;

(G) $38,434,000 for system security technology projects and activities;

(H) $27,808,000 for human factors and aviation medicine projects and activities;

(I) $8,532,000 for environment and energy projects and activities; and

(J) $5,459,000 for innovative/cooperative research projects and activities.

(b) AVAILABILITY FOR RESEARCH.—(1) At least 15 percent of the amount appropriated under subsection (a) of this section shall be for long-term research projects.

(2) At least 3 percent of the amount appropriated under subsection (a) of this section shall be available to the Administrator of the Federal Aviation Administration to make grants under section 44511 of this title.

(c) TRANSFERS BETWEEN CATEGORIES.—(1) Not more than 10 percent of the net amount authorized for a category of projects and activities in a fiscal year under subsection (a) of this section may be transferred to or from that category in that fiscal year.

(2) The Secretary may transfer more than 10 percent of an authorized amount to or from a category only after—

(A) submitting a written explanation of the proposed transfer to the Committees on Science, Space, and Technology and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

(B) 30 days have passed after the explanation is submitted or each Committee notifies the Secretary in writing that it does not object to the proposed transfer.

(d) AIRPORT CAPACITY RESEARCH AND DEVELOPMENT.—(1) Of the amounts made available under subsection (a) of this section, at least $25,000,000 may be appropriated each fiscal year for research and development under section 44505(a) and (c) of this title on preserving and enhancing airport capacity, including research and development on improvements to airport design standards, maintenance, safety, operations, and environmental concerns.

(2) The Administrator shall submit to the Committees on Science, Space, and Technology and Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on expenditures made under

paragraph (1) of this subsection for each fiscal year. The report shall be submitted not later than 60 days after the end of the fiscal year.

(e) AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH.—Necessary amounts may be appropriated to the Secretary out of amounts in the Fund available for research and development to conduct research under section 44506(a) and (b) of this title.

(f) AVAILABILITY OF AMOUNTS.—Amounts appropriated under subsection (a) of this section remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1294; Pub. L. 103–305, title III, § 302, Aug. 23, 1994, 108 Stat. 1589.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48102(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2205(b)(2) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 506(b)(2), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, § 105(b)(1), 101 Stat. 1490; Nov. 3, 1988, Pub. L. 100–591, § 7, 102 Stat. 3014; Nov. 5, 1990, Pub. L. 101–508, § 9202, 104 Stat. 1388–372; Oct. 31, 1992, Pub. L. 102–581, § 302, 106 Stat. 4895.
48102(b)	49 App.:2205(b)(2) (last sentence).	
48102(c)	49 App.:2205(b)(3).	Sept. 3, 1982, Pub. L. 97–248, § 506(b)(3), (5), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, § 105(b)(1), 101 Stat. 1491.
48102(d)	49 App.:2205(b)(4).	Sept. 30, 1982, Pub. L. 97–248, § 506(b)(4), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, § 105(b)(1), 101 Stat. 1491; Nov. 5, 1990, Pub. L. 101–508, § 9203, 104 Stat. 1388–373.
48102(e)	49 App.:1353 (note).	Nov. 3, 1988, Pub. L. 100–591, § 8(d), 102 Stat. 3016; Nov. 17, 1988, Pub. L. 100–685, § 604, 102 Stat. 4103.
48102(f)	49 App.:2205(b)(5).	

In subsections (a) and (b), as to applicability of section 305(b) of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 (Pub. L. 102–581, 106 Stat. 4896), see section 6(b) of the bill.

In subsection (a)(1), the word ''solely'' is omitted as surplus. Before clause (1), the words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

In subsection (d)(1), the words ''Notwithstanding any other provision of this subsection'' and ''in each of fiscal years 1988, 1989, 1990, 1991, and 1992'' are omitted as surplus.

In subsection (d)(2), the reference to fiscal years 1988–1992 and the words ''by the Administrator for research and development'' are omitted as surplus.

AMENDMENTS

1994—Subsec. (a)(1), (2). Pub. L. 103–305 inserted pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) for the fiscal year ending September 30, 1993—

''(A) $14,700,000 only for management and analysis projects and activities.

''(B) $87,000,000 only for capacity and air traffic management technology projects and activities.

''(C) $28,000,000 only for communications, navigation, and surveillance projects and activities.

''(D) $7,700,000 only for weather projects and activities.

''(E) $6,800,000 only for airport technology projects and activities.

''(F) $44,000,000 only for aircraft safety technology projects and activities.

''(G) $41,100,000 only for system security technology projects and activities.

''(H) $31,000,000 only for human factors and aviation medicine projects and activities.

''(I) $4,500,000 for environment and energy projects and activities.

''(J) $5,200,000 for innovative and cooperative research projects and activities.

''(2) for the fiscal year ending September 30, 1994, $297,000,000.''

CHANGE OF NAME

Committee on Science, Space, and Technology of House of Representatives changed to Committee on Science of House of Representatives and Committee on Public Works and Transportation of House of Representatives changed to Committee on Transportation and Infrastructure of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47108, 48104, 48108, 48109, 49101, 49102, 49103, 49105 of this title.

§ 48103. Airport planning and development and noise compatibility planning and programs

The total amounts which shall be available after September 30, 1981, to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c) of this title shall be $17,583,500,000 for fiscal years ending before October 1, 1994, $19,744,500,000 for fiscal years ending before October 1, 1995, and $21,958,500,000 for fiscal years ending before October 1, 1996.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1296; Pub. L. 103–305, title I, § 101(a), Aug. 23, 1994, 108 Stat. 1570.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48103	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2204(a) (2d sentence).	Sept. 3, 1982, Pub. L. 97–248, § 505(a) (2d sentence), 96 Stat. 676; Jan. 6, 1983, Pub. L. 97–424, § 426(b)(1)–(5), 96 Stat. 2167; restated Dec. 30, 1987, Pub. L. 100–223, § 105(e), 101 Stat. 1493; Nov. 5, 1990, Pub. L. 101–508, § 9104(1), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 102(a), 106 Stat. 4876.

In this section, references to the aggregate amounts for fiscal years ending before October 1, 1987–1992, are omitted as obsolete. The words ''of which $475,000,000 shall be credited to the supplementary discretionary fund established by section 2206(a)(3)(B)'' are omitted as executed. In restating section 505(a) (2d sentence) of the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 676), the cross-reference to the

discretionary fund was retained but is incorrect because of the restatement of section 507 of the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 679) by section 426(a) of the Highway Improvement Act of 1982 (Public Law 97–424, 96 Stat. 2167). See section 47115 of the revised title.

AMENDMENTS

1994—Pub. L. 103–305 substituted ''The total amounts which shall be available after September 30, 1981, to the Secretary of Transportation'' for ''Not more than a total of $15,966,700,000 is available to the Secretary of Transportation for the fiscal years ending September 30, 1982–1993,'' and inserted before period at end ''shall be $17,583,500,000 for fiscal years ending before October 1, 1994, $19,744,500,000 for fiscal years ending before October 1, 1995, and $21,958,500,000 for fiscal years ending before October 1, 1996''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47102, 47104, 47107, 47110, 47113, 47114, 47115, 47116, 47117, 47504, 47505, 48104, 48108 of this title.

§ 48104. Certain direct costs and joint air navigation services

(a) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in this section, the balance of the money available in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) may be appropriated to the Secretary of Transportation out of the Fund for—

(1) direct costs the Secretary incurs to flight check, operate, and maintain air navigation facilities referred to in section 44502(a)(1)(A) of this title safely and efficiently; and

(2) the costs of services provided under international agreements related to the joint financing of air navigation services assessed against the United States Government.

(b) LIMITATION FOR FISCAL YEARS[1] 1993.—The amount that may be appropriated out of the Fund for fiscal year 1993 may not be more than an amount equal to—

(1) 75 percent of the amount made available under sections 106(k) and 48101–48103 of this title for that fiscal year; less

(2) the amount made available under sections 48101–48103 of this title for that fiscal year.

(c) LIMITATION FOR FISCAL YEARS 1994–1996.—The amount appropriated from the Trust Fund for the purposes of paragraphs (1) and (2) of subsection (a) for each of fiscal years 1994, 1995, and 1996 may not exceed the lesser of—

(1) 50 percent of the amount of funds made available under sections 48101–48103 of this title for such fiscal year; or

(2)(A) 70 percent of the amount of funds made available under sections 106(k) and 48101–48103 of this title for such fiscal year; less

(B) the amount of funds made available under sections 48101–48103 of this title for such fiscal year.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1296; Pub. L. 103–305, title I, § 102(b), Aug. 23, 1994, 108 Stat. 1571.)

[1] So in original. Probably should be ''YEAR''.

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48104(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2205(c)(1).	Sept. 3, 1982, Pub. L. 97–248, § 506(c)(1), 96 Stat. 678; Dec. 30, 1987, Pub. L. 100–223, § 105(g)(2)(A), (C), 101 Stat. 1494.
48104(b)	49 App.:2205(c)(2).	Sept. 3, 1982, Pub. L. 97–248, § 506(c)(2), 96 Stat. 678; Jan. 6, 1983, Pub. L. 97–424, § 426(c), 96 Stat. 2168; Dec. 30, 1987, Pub. L. 100–223, § 105(g)(2)(B), (C), 101 Stat. 1494.
	49 App.:2205(c)(3).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 506(c)(3); added Dec. 30, 1987, Pub. L. 100–223, § 105(c)(1), 101 Stat. 1492; Nov. 5, 1990, Pub. L. 101–508, § 9107(a), 104 Stat. 1388–355.
	49 App.:2205(c)(4).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 506(c)(4); added Nov. 5, 1990, Pub. L. 101–508, § 9107(b), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 103(c)(1), 106 Stat. 4877.

In subsection (a), before clause (1), the words ''Except as provided in this section'' are added for clarity. The words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

In subsection (b), the text of 49 App.:2205(c)(2) and (3) and the reference to fiscal years 1991 and 1992 in 49 App:2205(c)(4) are omitted as obsolete.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–305, § 102(b)(1), (2), inserted ''FOR FISCAL YEARS 1993'' in heading and substituted ''fiscal year 1993'' for ''each of the fiscal years ending September 30, 1993–1995,'' in introductory provisions.

Subsec. (c). Pub. L. 103–305, § 102(b)(3), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 48105, 48108 of this title.

§ 48105. Weather reporting services

To reimburse the Secretary of Commerce for the cost incurred by the National Oceanic and Atmospheric Administration of providing weather reporting services to the Federal Aviation Administration, the Secretary of Transportation may expend from amounts available under section 48104 of this title not more than the following amounts:

(1) for the fiscal year ending September 30, 1993, $35,596,000.

(2) for the fiscal year ending September 30, 1994, $37,800,000.

(3) for the fiscal year ending September 30, 1995, $39,000,000.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1296.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48105	49 App.:2205(d).	Sept. 3, 1982, Pub. L. 97–248, § 506(d), 96 Stat. 678; Dec. 30, 1987, Pub. L. 100–223, § 105(c)(2), 101 Stat. 1493; Nov. 5, 1990, Pub. L. 101–508, §§ 9108, 9204, 104 Stat. 1388–355, 1388–373; Oct. 31, 1992, Pub. L. 102–581, § 103(d), 106 Stat. 4877.

The words ''for fiscal years beginning after September 30, 1982'' are omitted as obsolete. The words ''Secretary of Commerce'' are substituted for ''National Oceanic and Atmospheric Administration'' because of 15:1501. The words ''The Federal Aviation Administration with'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 48108 of this title.

§ 48106. Airway science curriculum grants

Amounts are available from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out section 44510 of this title. The amounts remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1296.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48106	49 App.:1354a (2d sentence).	Nov. 5, 1990, Pub. L. 101–516, (2d sentence in par. under heading ''Facilities and Equipment''), 104 Stat. 2160. Oct. 28, 1991, Pub. L. 102–143, (2d sentence in par. under heading ''Facilities and Equipment''), 105 Stat. 922. Oct. 6, 1992, Pub. L. 102–388, (2d sentence in par. under heading ''Facilities and Equipment''), 106 Stat. 1526.

This section is substituted for the source provisions for clarity and because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47108, 49101, 49102, 49105 of this title.

§ 48107. Civil aviation security research and development

After the review under section 44912(b) of this title is completed, necessary amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants under section 44912(a)(4)(A).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48107	49 App.:1357(d)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(d)(9); added Nov. 16, 1990, Pub. L. 101–604, § 107, 104 Stat. 3077.

The words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 47108, 49101, 49102, 49105 of this title.

§ 48108. Availability and uses of amounts

(a) AVAILABILITY OF AMOUNTS.—Amounts equal to the amounts authorized under sections 48101–48105 of this title remain in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) until appropriated for the purposes of sections 48101–48105.

(b) LIMITATIONS ON USES.—(1) Amounts in the Fund may be appropriated only to carry out a program or activity referred to in this chapter.

(2) Amounts in the Fund may be appropriated for administrative expenses of the Department of Transportation or a component of the Department only to the extent authorized by section 48104 of this title.

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—In a fiscal year beginning after September 30, 1996, the Secretary of Transportation may obligate or expend an amount appropriated out of the Fund under section 48104 of this title only if a law expressly amends section 48104.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297; Pub. L. 103–305, title I, § 102(c), Aug. 23, 1994, 108 Stat. 1571.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48108(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2205(e)(2).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(2), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, § 105(g)(3), 101 Stat. 1494.
48108(b)(1) ..	49 App.:2205(e)(1).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(1), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, § 105(d)(1), 101 Stat. 1493.
48108(b)(2) ..	49 App.:2205(e)(3).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(3), 96 Stat. 679.
48108(c)	49 App.:2205(e)(5).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(5), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, § 105(d)(2), 101 Stat. 1493; Oct. 31, 1992, Pub. L. 102–581, § 103(c)(2), 106 Stat. 4877.

In subsection (a), the words ''for each fiscal year'' are omitted as surplus.

In subsection (b)(1), the words ''Notwithstanding any other provision of law to the contrary'' are omitted as surplus. The reference to ''this chapter'' is intended to include sections 48106 and 48107 of the revised title for accuracy because the source provisions for those sections were enacted after the source provisions being restated in this section.

In subsection (b)(2), the words ''for any fiscal year'' are omitted as surplus.

In subsection (c), the words ''be construed as'' and ''the purposes described in'' are omitted as surplus.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–305 substituted ''1996'' for ''1995''.

§ 48109. Submission of budget information and legislative recommendations and comments

When the Administrator of the Federal Aviation Administration submits to the Secretary of Transportation, the President, or the Director of the Office of Management and Budget any budget information, legislative recommendation, or comment on legislation about amounts authorized in section 48101 or 48102 of this title, the Administrator concurrently shall submit a copy of the information, recommendation, or comment to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48109	49 App.:2205(f).	Sept. 3, 1982, Pub. L. 97–248, § 506(f), 96 Stat. 679.

The words ''Director of the Office of Management and Budget'' are substituted for ''Office of Management and Budget'' because of 31:502(a). The words ''or transmits . . . budget estimate, budget request, supplemental budget estimate, or other'' and ''thereof'' are omitted as surplus.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives changed to Committee on Transportation and Infrastructure of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

§ 48110. Facilities for advanced training of maintenance technicians for air carrier aircraft

For the fiscal years ending September 30, 1993–1995, amounts necessary to carry out section 44515 of this title may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502). The amounts remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48110	49 App.:1354 (note).	Oct. 31, 1992, Pub. L. 102–581, § 119(d), 106 Stat. 4884.

The words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47108, 49101, 49102, 49105 of this title.

PART D—MISCELLANEOUS

CHAPTER 491—BUY-AMERICAN PREFERENCES

Sec.
49101. Buying goods produced in the United States.
49102. Restricting contract awards because of discrimination against United States goods or services.
49103. Contract preference for domestic firms.
49104. Restriction on airport projects using products or services of foreign countries denying fair market opportunities.
49105. Fraudulent use of ''Made in America'' label.

§ 49101. Buying goods produced in the United States

(a) PREFERENCE.—The Secretary of Transportation may obligate an amount that may be appropriated to carry out section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except sections 47106(d)[1] and 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title for a project only if steel and manufactured goods used in the project are produced in the United States.

(b) WAIVER.—The Secretary may waive subsection (a) of this section if the Secretary finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) the steel and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(3) when procuring a facility or equipment under section 44502(a)(2) or 44509, subchapter I of chapter 471 (except sections 47106(d)[1] and 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title—

(A) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the facility or equipment; and

(B) final assembly of the facility or equipment has occurred in the United States; or

(4) including domestic material will increase the cost of the overall project by more than 25 percent.

(c) LABOR COSTS.—In this section, labor costs involved in final assembly are not included in calculating the cost of components.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1298.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49101(a)	49 App.:2226a(a).	Nov. 5, 1990, Pub. L. 101–508, § 9129, 104 Stat. 1388–371.
49101(b)	49 App.:2226a(b).	
49101(c)	49 App.:2226a(c).	

In this chapter, the word ''goods'' is substituted for ''product'' and ''products'' for consistency.

In subsection (a), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''after November 5, 1990'' are omitted as obsolete.

In subsection (b), before clause (1), the words ''The Secretary may waive'' are substituted for ''shall not

[1] See References in Text note below.

apply'' for consistency. In clause (2), the words ''steel and goods'' are substituted for ''materials and products'' for consistency. In clause (4), the word ''contract'' is omitted as surplus.

REFERENCES IN TEXT

Section 47106(d) of this title, referred to in subsecs. (a) and (b)(3), was repealed, and section 47106(e) redesignated section 47106(d), by Pub. L. 103–305, title I, § 108, Aug. 23, 1994, 108 Stat. 1573.

USE OF DOMESTIC PRODUCTS

Pub. L. 103–305, title III, § 305, Aug. 23, 1994, 108 Stat. 1592, provided that:

''(a) PROHIBITION AGAINST FRAUDULENT USE OF 'MADE IN AMERICA' LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of 'Made in America', or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

''(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 40101 of this title], including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

''(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each office within the Federal Aviation Administration that conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c [41 U.S.C. 10a—10b–1], popularly known as the 'Buy American Act').

''(2) This subsection shall apply only to procurements made for which—

''(A) amounts are authorized by this title to be made available; and

''(B) solicitations for bids are issued after the date of the enactment of this Act [Aug. 23, 1994].

''(3) The Secretary, before January 1, 1995, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

''(c) DEFINITIONS.—For the purposes of this section, the term 'domestic product' means a product—

''(1) that is manufactured or produced in the United States; and

''(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.'' Similar provisions were contained in the following prior authorization act: Pub. L. 102–581, title III, § 305, Oct. 31, 1992, 106 Stat. 4896.

PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS

Pub. L. 103–305, title III, § 306, Aug. 23, 1994, 108 Stat. 1593, provided that:

''(a) SENSE OF CONGRESS.—It is the sense of Congress that any recipient of a grant under this title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 40101 of this title], or under any amendment made by this title, should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

''(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In allocating grants under this title, or under any amendment made by this title, the Secretary shall provide to each recipient a notice describing the statement made in subsection (a) by the Congress.''

§ 49102. Restricting contract awards because of discrimination against United States goods or services

A person or enterprise domiciled or operating under the laws of a foreign country may not make a contract or subcontract under section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except sections 47106(d)[1] and 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title or subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–353) if the government of that country unfairly maintains, in government procurement, a significant and persistent pattern of discrimination against United States goods or services that results in identifiable harm to United States businesses, that the President identifies under section 305(g)(1)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1298.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49102	49 App.:2226c.	Nov. 5, 1990, Pub. L. 101–508, § 9131, 104 Stat. 1388–372; Oct. 31, 1992, Pub. L. 102–581, § 118(b), 106 Stat. 4883.

The words ''government of that country'' are substituted for ''that government'' for consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

Section 47106(d) of this title, referred to in text, was repealed and section 47106(e) redesignated section 47106(d) by Pub. L. 103–305, title I, § 108, Aug. 23, 1994, 108 Stat. 1573.

Subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990, referred to in text, is subtitle B (§§ 9101–9131) of title IX of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–353, as amended, known as the Aviation Safety and Capacity Expansion Act of 1990. Sections 9102 to 9105, 9107 to 9112(b), 9113 to 9115, 9118, 9121 to 9123, 9124 ''Sec. 613(c)'', 9125, 9127, and 9129 to 9131 of title IX of Pub. L. 101–508 were repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

§ 49103. Contract preference for domestic firms

(a) DEFINITIONS.—In this section—

(1) ''domestic firm'' means a business entity incorporated, and conducting business, in the United States.

(2) ''foreign firm'' means a business entity not described in clause (1) of this subsection.

(b) PREFERENCE.—Subject to subsections (c) and (d) of this section, the Administrator of the Federal Aviation Administration may make, with a domestic firm, a contract related to a grant made under section 44511, 44512, or 44513 of this title that, under competitive procedures, would be made with a foreign firm, if—

(1) the Administrator decides, and the Secretary of Commerce and the United States

[1] See References in Text note below.

Trade Representative concur, that the public interest requires making the contract with the domestic firm, considering United States international obligations and trade relations;

(2) the difference between the bids submitted by the foreign firm and the domestic firm is not more than 6 percent;

(3) the final product of the domestic firm will be assembled completely in the United States; and

(4) at least 51 percent of the final product of the domestic firm will be produced in the United States.

(c) NONAPPLICATION.—Subsection (b) of this section does not apply if—

(1) compelling national security considerations require that subsection (b) of this section not apply; or

(2) the Trade Representative decides that making the contract would violate the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(d) APPLICATION TO CERTAIN GRANTS.—This section applies only to a contract related to a grant made under section 44511, 44512, or 44513 of this title for which—

(1) an amount is authorized by section 48102(a), (b), or (d) of this title to be made available for the fiscal years ending September 30, 1991, and September 30, 1992; and

(2) a solicitation for bid is issued after November 5, 1990.

(e) REPORT.—The Administrator shall submit a report to Congress on—

(1) contracts to which this section applies that are made with foreign firms in the fiscal years ending September 30, 1991, and September 30, 1992;

(2) the number of contracts that meet the requirements of subsection (b) of this section, but that the Trade Representative decides would violate the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party; and

(3) the number of contracts made under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1298.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49103(a)	49 App.:2226d(e).	Nov. 5, 1990, Pub. L. 101–508, § 9207, 104 Stat. 1388–375.
49103(b)	49 App.:2226d(a).	
49103(c)	49 App.:2226d(b).	
49103(d)	49 App.:2226d(c).	
49103(e)	49 App.:2226d(d).	

In subsection (a), the text of 49 App.:2226d(e)(1) is omitted because the complete name of the Administrator of the Federal Aviation Administration is used the first time the term appears in a section.

In subsection (b), before clause (1), the words ''Subject to subsections (c) and (d) of this section'' are added to alert the reader to the limitations in those subsections. In clause (1), the words ''requires making the contract with the domestic firm'' are substituted for ''so requires'' for clarity. The words ''considering United States international obligations and trade relations'' are substituted for ''In determining under this subsection whether the public interest so requires, the Administrator shall take into account United States international obligations and trade relations'' to eliminate unnecessary words. In clause (4), the words ''when completely assembled'' are omitted as surplus. The words ''produced in the United States'' are substituted for ''domestically produced'' for consistency with clause (3).

In subsection (c), the words ''(1) such applicability would not be in the public interest'' are omitted as redundant to subsection (b)(1) of the revised section.

In subsection (e)(1), the words ''foreign firms'' are substituted for ''foreign entities'' for consistency in the revised section.

Subsection (e)(3) is substituted for ''the number of contracts covered under this subtitle (including the amendments made by this subtitle) and awarded based upon the parameters of this section'' to eliminate unnecessary words.

§ 49104. Restriction on airport projects using products or services of foreign countries denying fair market opportunities

(a) DEFINITION AND RULES FOR CONSTRUING SECTION.—In this section—

(1) ''project'' has the same meaning given that term in section 47102 of this title.

(2) each foreign instrumentality and each territory and possession of a foreign country administered separately for customs purposes is a separate foreign country.

(3) an article substantially produced or manufactured in a foreign country is a product of the country.

(4) a service provided by a person that is a national of a foreign country or that is controlled by a national of a foreign country is a service of the country.

(b) LIMITATION ON USE OF AVAILABLE AMOUNTS.—(1) An amount made available under subchapter I of chapter 471 of this title (except sections 47106(d)[1] and 47127) may not be used for a project that uses a product or service of a foreign country during any period the country is on the list maintained by the United States Trade Representative under subsection (d)(1) of this section.

(2) Paragraph (1) of this subsection does not apply when the Secretary of Transportation decides that—

(A) applying paragraph (1) to the product, service, or project is not in the public interest;

(B) a product or service of the same class or type and of satisfactory quality is not produced or offered in the United States, or in a foreign country not listed under subsection (d)(1) of this section, in a sufficient and reasonably available amount; and

(C) the project cost will increase by more than 20 percent if the product or service is excluded.

(c) DECISIONS ON DENIAL OF FAIR MARKET OPPORTUNITIES.—Not later than 30 days after a report is submitted to Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the Trade Representative, for a construction project of more than $500,000 for which the government of a foreign country supplies any part of the amount, shall decide whether the foreign country denies fair market opportunities for

[1] See References in Text note below.

products and suppliers of the United States in procurement or for United States bidders. In making the decision, the Trade Representative shall consider information obtained in preparing the report and other information the Trade Representative considers relevant.

(d) LIST OF COUNTRIES DENYING FAIR MARKET OPPORTUNITIES.—(1) The Trade Representative shall maintain a list of each foreign country the Trade Representative finds under subsection (c) of this section is denying fair market opportunities. The country shall remain on the list until the Trade Representative decides the country provides fair market opportunities.

(2) The Trade Representative shall publish in the Federal Register—

(A) annually the list required under paragraph (1) of this subsection; and

(B) any modification of the list made before the next list is published.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1299.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49104(a)(1) ..	(no source).	
49104(a) (2)–(4).	49 App.:2226(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 533; added Dec. 30, 1987, Pub. L. 100–223, § 115, 101 Stat. 1505.
49104(b)	49 App.:2226(a).	
49104(c)	49 App.:2226(b).	
49104(d)	49 App.:2226(c).	

Subsection (a)(1) is added for clarity.

In subsection (b)(1), the words ''subchapter I of chapter 471 of this title (except sections 47106(d) and 47127)'' are substituted for ''Act'' in section 533(a)(1) of the Airport and Airway Development Act of 1982, as added by section 115 of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1505) to correct a mistake.

In subsection (b)(2), before clause (A), the words ''with respect to the use of a product or service in a project'' are omitted as surplus. In clause (B), the words ''or service'' are added for clarity and consistency in this section. In clause (C), the words ''overall'' and ''contract'' are omitted as surplus.

In subsection (c), the words ''the date which is'', ''the date on which'', ''or not'', and ''and equitable'' are omitted as surplus.

In subsection (d)(1), the words ''finds under subsection (c) of this section is denying fair market opportunities'' are substituted for ''with respect to which an affirmative determination is made under subsection (b)'' for clarity.

In subsection (d)(2)(A), the word ''entire'' is omitted as surplus.

REFERENCES IN TEXT

Section 47106(d) of this title, referred to in subsec. (b)(1), was repealed and section 47106(e) redesignated section 47106(d) by Pub. L. 103–305, title I, § 108, Aug. 23, 1994, 108 Stat. 1573.

§ 49105. Fraudulent use of "Made in America" label

If the Secretary of Transportation decides that a person intentionally affixed a ''Made in America'' label to goods sold in or shipped to the United States that are not made in the United States, the Secretary shall declare the person ineligible, for not less than 3 nor more than 5 years, to receive a contract or grant from the United States Government related to a contract made under section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except sections 47106(d)[1] and 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title or subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–353). The Secretary may bring a civil action to enforce this section in any district court of the United States.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1300.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49105	49 App.:2226b.	Nov. 5, 1990, Pub. L. 101–508, § 9130, 104 Stat. 1388–372; Oct. 31, 1992, Pub. L. 102–581, § 118(a), 106 Stat. 4883.

REFERENCES IN TEXT

Section 47106(d) of this title, referred to in text, was repealed and section 47106(e) redesignated section 47106(d) by Pub. L. 103–305, title I, § 108, Aug. 23, 1994, 108 Stat. 1573.

Subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990, referred to in text, is subtitle B (§§ 9101–9131) of title IX of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–353, as amended, known as the Aviation Safety and Capacity Expansion Act of 1990. Sections 9102 to 9105, 9107 to 9112(b), 9113 to 9115, 9118, 9121 to 9123, 9124 ''Sec. 613(c)'', 9125, 9127, and 9129 to 9131 of title IX of Pub. L. 101–508 were repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

SUBTITLE VIII—PIPELINES

Chapter		Sec.
601.	**Safety**	**60101**
603.	**User Fees**	**60301**
605.	**Interstate Commerce Regulation**	**60501**

CHAPTER 601—SAFETY

Sec.
60101. Definitions.
60102. General authority.
60103. Standards for liquefied natural gas pipeline facilities.
60104. Requirements and limitations.
60105. State certifications.
60106. State agreements.
60107. State grants.
60108. Inspection and maintenance.
60109. High-density population areas and environmentally sensitive areas.
60110. Excess flow valves.
60111. Financial responsibility for liquefied natural gas facilities.
60112. Pipeline facilities hazardous to life and property.
60113. Customer-owned natural gas service lines.
60114. One-call notification systems.
60115. Technical safety standards committees.
60116. Public education programs.
60117. Administrative.
60118. Compliance and waivers.
60119. Judicial review.

[1] See References in Text note below.