

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

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

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

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

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by sections 1 and 2 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

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

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

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

REPEALS AND SAVINGS PROVISIONS

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

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 L. 105-225, §7(c)(2), Aug. 12, 1998, 112 Stat. 1511, repealed specified laws, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Nov. 20, 1997.

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

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

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

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

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

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

Pub. L. 98-216, §6(a), Feb. 14, 1984, 98 Stat. 7, provided that: “The repeal of a law enacted [the word “enacted” probably should not appear] by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.”

Pub. L. 98-216, §6(b), Feb. 14, 1984, 98 Stat. 7, repealed specified laws, except for rights and duties that ma-

tured, penalties that were incurred, and proceedings that were begun before Feb. 14, 1984.

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

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

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

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

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

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

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

EFFECTIVE DATE OF CERTAIN REPEALS

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

SUBTITLE I—DEPARTMENT OF TRANSPORTATION

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

AMENDMENTS

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

CHAPTER 1—ORGANIZATION

Sec. 101. Purpose.
102. Department of Transportation.
103. Federal Railroad Administration.
104. Federal Highway Administration.
105. National Highway Traffic Safety Administration.

Sec.	
106.	Federal Aviation Administration.
107.	Federal Transit Administration.
108.	Pipeline and Hazardous Materials Safety Administration.
109.	Maritime Administration.
110.	Saint Lawrence Seaway Development Corporation.
[111.	Repealed.]
112.	Office of the Assistant Secretary for Research and Technology of the Department of Transportation.
113.	Federal Motor Carrier Safety Administration.
114.	Transportation Security Administration.
115.	Transportation Security Oversight Board.

## AMENDMENTS

2012—Pub. L. 112–141, div. E, title II, § 52011(c)(1), July 6, 2012, 126 Stat. 895, struck out item 111 “Bureau of Transportation Statistics”.

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

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

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

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

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

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

## CHANGE OF NAME

“Office of the Assistant Secretary for Research and Technology of the Department of Transportation” substituted for “Research and Innovative Technology Administration” in item 112 on authority of title I of div. L of Pub. L. 113–76, set out in part as a note under section 112 of this title.

## § 101. Purpose

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

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

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

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

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

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

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

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

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

## HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

## AMENDMENTS

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

## SHORT TITLE OF 2004 AMENDMENT

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

## SHORT TITLE OF 1999 AMENDMENT

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

## SHORT TITLE OF 1995 AMENDMENT

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

## SHORT TITLE OF 1994 AMENDMENT

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

## SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-240, §1, Dec. 18, 1991, 105 Stat. 1914, provided that: "This Act [see Tables for classification] may be cited as the 'Intermodal Surface Transportation Efficiency Act of 1991'."

## DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

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

## CONGRESSIONAL DECLARATION OF POLICY REGARDING NATIONAL INTERMODAL TRANSPORTATION SYSTEM

Pub. L. 102-240, §2, Dec. 18, 1991, 105 Stat. 1914, which provided that it was the policy of the United States to develop a National Intermodal Transportation System consisting of all forms of transportation in a unified, interconnected manner, a National Highway System, improvements in public transportation achieving goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons, was repealed and reenacted as section 5501 of this title by Pub. L. 103-272, §§1(d), 7(b), July 5, 1994, 108 Stat. 848, 1379.

## "SECRETARY" DEFINED

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

Pub. L. 102-240, §3, Dec. 18, 1991, 105 Stat. 1915, provided that: "As used in this Act [see Short Title of 1991 Amendment note set out above], the term 'Secretary' means the Secretary of Transportation."

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

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

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

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

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

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

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

(e) Federally assisted community transportation services should be seamless, comprehensive, and accessible to those who rely on them for their lives and livelihoods. For persons with mobility limitations related to advanced age, persons with disabilities, and persons

struggling for self-sufficiency, transportation within and between our communities should be as available and affordable as possible.

(f) The development, implementation, and maintenance of responsive, comprehensive, coordinated community transportation systems is essential for persons with disabilities, persons with low incomes, and older adults who rely on such transportation to fully participate in their communities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Describe the results achieved, on an agency and program basis, in: (i) simplifying access to transpor-

tation services for persons with disabilities, persons with low income, and older adults; (ii) providing the most appropriate, cost-effective transportation services within existing resources; and (iii) reducing duplication to make funds available for more services to more such persons;

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

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

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

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

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

GEORGE W. BUSH.

## § 102. Department of Transportation

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

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

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

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

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

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

(e) ASSISTANT SECRETARIES; GENERAL COUNSEL.—

(1) APPOINTMENT.—The Department has 5 Assistant Secretaries and a General Counsel, including—

(A) an Assistant Secretary for Aviation and International Affairs, an Assistant Secretary for Governmental Affairs, and an Assistant Secretary for Transportation Policy,

who shall each be appointed by the President, with the advice and consent of the Senate;

(B) an Assistant Secretary for Budget and Programs who shall be appointed by the President;

(C) an Assistant Secretary for Administration, who shall be appointed by the Secretary, with the approval of the President; and

(D) a General Counsel, who shall be appointed by the President, with the advice and consent of the Senate.

(2) DUTIES AND POWERS.—The officers set forth in paragraph (1) shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary or the General Counsel, in the order prescribed by the Secretary, acts for the Secretary when the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are absent or unable to serve, or when the offices of the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are vacant.

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

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

(2) RESERVATION OF TRUST OBLIGATIONS.—

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

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

(g) OFFICE OF CLIMATE CHANGE AND ENVIRONMENT.—

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

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

(B) department-wide research strategies and actions to address the impacts of cli-

mate change on transportation systems and infrastructure.

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

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

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2414; Pub. L. 98–557, §26(a), Oct. 30, 1984, 98 Stat. 2873; Pub. L. 103–272, §4(j)(1), July 5, 1994, 108 Stat. 1365; Pub. L. 107–295, title II, §215(a), (c), Nov. 25, 2002, 116 Stat. 2101, 2102; Pub. L. 109–59, title I, §1119(l), Aug. 10, 2005, 119 Stat. 1189; Pub. L. 110–140, title XI, §1101(a), Dec. 19, 2007, 121 Stat. 1756; Pub. L. 112–166, §2(k)(1), Aug. 10, 2012, 126 Stat. 1286.)

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

AMENDMENTS

2012—Subsec. (e). Pub. L. 112–166 inserted subsec. (e) heading, struck out “The Department has 4 Assistant

Secretaries and a General Counsel appointed by the President, by and with the advice and consent of the Senate. The Department also has an Assistant Secretary of Transportation for Administration appointed in the competitive service by the Secretary, with the approval of the President. They shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary” before “or the General Counsel,” added par. (1), inserted par. (2) designation and heading, and, in par. (2), inserted “The officers set forth in paragraph (1) shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary”.

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2007 AMENDMENT

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

EFFECTIVE DATE OF 2002 AMENDMENT

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

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

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

## COORDINATION

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

## NOTICE

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

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

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

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

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

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

## SURFACE TRANSPORTATION ADMINISTRATION

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

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

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

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

Pub. L. 98-557, §26(c), Oct. 30, 1984, 98 Stat. 2873, provided that: "Notwithstanding any other provision of law, until April 15, 1985, the position created by subsection (a) of this section [adding subsec. (d) of this section] may be held by a person named by the President alone from among qualified individuals."

## EX. ORD. NO. 11340. EFFECTIVE DATE

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

LYNDON B. JOHNSON.

## § 103. Federal Railroad Administration

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

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

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

(d) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in railroad safety, hazardous materials safety, or other transportation safety. The Administrator shall report directly to the Secretary of Transportation.

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

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

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

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

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

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

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

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

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

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

(2) develop a long-range national rail plan that is consistent with approved State rail plans and the rail needs of the Nation, as determined by the Secretary in order to promote an integrated, cohesive, efficient, and optimized national rail system for the movement of goods and people;

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

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

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

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

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

<sup>1</sup> So in original. Probably should be “chapter;”.

(k) PERFORMANCE GOALS AND REPORTS.—

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

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

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

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

HISTORICAL AND REVISION NOTES  
PUB. L. 97–449

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

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

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

In subsection (c), the words “vested in the Secretary” are substituted for “as set forth in the statutes transferred to the Secretary” in 49:1655(f)(3)(A) for clarity and consistency. The words “section 6(e)(1), (2), and

(6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e)(1), (2), and (6)(A))” are substituted for “subsection (e) of this section (other than subsection (e)(4) of this section)” in 49:1655(f)(3)(A) for clarity.

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

#### PUB. L. 103-272

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

#### REFERENCES IN TEXT

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

#### AMENDMENTS

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

2008—Subsec. (a). Pub. L. 110-432, § 307(1), (2), inserted heading and struck out at end “To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.”

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

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

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

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

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

#### UPDATE OF FEDERAL RAILROAD ADMINISTRATION’S WEBSITE

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

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

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

transportation laws, regulations, and orders to the Federal Railroad Administration.”

[For definitions of “Secretary” and “railroad”, as used in section 307 of Pub. L. 110-432, set out above, see section 2(a) of Pub. L. 110-432, set out as a note under section 20102 of this title.]

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

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

#### § 104. Federal Highway Administration

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

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

(2) The Administration has a Deputy Federal Highway Administrator who is appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

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

(c) The Administrator shall carry out—

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

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

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

(Pub. L. 97-449, § 1(b), Jan. 12, 1983, 96 Stat. 2415; Pub. L. 103-272, §§ 4(j)(2), 5(m)(2), July 5, 1994, 108 Stat. 1365, 1375; Pub. L. 104-324, title I, § 101(b)(1),

Oct. 19, 1996, 110 Stat. 3905; Pub. L. 106-159, title I, § 101(c)(2), Dec. 9, 1999, 113 Stat. 1751.)

HISTORICAL AND REVISION NOTES

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

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

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

In subsection (b)(3), the words “in the competitive service” are substituted for “under the classified civil service” to conform to 5:2102. The text of 23:303(b), (c) is omitted as unnecessary because sections 322 and 323 of the revised title restate the authority of the Secretary of Transportation.

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

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

REFERENCES IN TEXT

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

AMENDMENTS

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

Subsecs. (d), (e). Pub. L. 106-159, §101(c)(2)(B), (C), redesignated subsec. (e) as (d) and struck out former sub-

sec. (d) which read as follows: “A duty or power specified by subsection (c)(2) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.”

1996—Subsec. (e). Pub. L. 104-324 added subsec. (e).  
1994—Subsec. (b)(1). Pub. L. 103-272, §4(j)(2), substituted “Administrator” for “Administrator” before “who is”.

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

EFFECTIVE DATE OF 1999 AMENDMENT

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

TRANSFER OF FUNCTIONS

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

ELIMINATION OF REGIONAL OFFICE RESPONSIBILITIES

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

“(a) IN GENERAL.—

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

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

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

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

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

§ 105. National Highway Traffic Safety Administration

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

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

(c) The Administrator shall carry out—

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

AMENDMENTS

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

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION ELECTRONICS, SOFTWARE, AND ENGINEERING EXPERTISE

Pub. L. 112-141, div. C, title I, §31401, July 6, 2012, 126 Stat. 772, provided that:

“(a) COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND EMERGING TECHNOLOGIES.—

“(1) IN GENERAL.—The Secretary [of Transportation] shall establish, within the National Highway Traffic Safety Administration, a Council for Vehicle Electronics, Vehicle Software, and Emerging Tech-

nologies (referred to in this section as the ‘Council’) to build, integrate, and aggregate the Administration’s expertise in passenger motor vehicle electronics and other new and emerging technologies.

“(2) IMPLEMENTATION OF ROADMAP.—The Council shall research the inclusion of emerging lightweight plastic and composite technologies in motor vehicles to increase fuel efficiency, lower emissions, meet fuel economy standards, and enhance passenger motor vehicle safety through continued utilization of the Administration’s Plastic and Composite Intensive Vehicle Safety Roadmap (Report No. DOT HS 810 863).

“(3) INTRA-AGENCY COORDINATION.—The Council shall coordinate with all components of the Administration responsible for vehicle safety, including research and development, rulemaking, and defects investigation.

“(b) HONORS RECRUITMENT PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall establish, within the National Highway Traffic Safety Administration, an honors program for engineering students, computer science students, and other students interested in vehicle safety that will enable such students to train with engineers and other safety officials for careers in vehicle safety.

“(2) STIPEND.—The Secretary is authorized to provide a stipend to any student during the student’s participation in the program established under paragraph (1).

“(c) ASSESSMENT.—The Council, in consultation with affected stakeholders, shall periodically assess the implications of emerging safety technologies in passenger motor vehicles, including the effect of such technologies on consumers, product availability, and cost.”

§ 106. Federal Aviation Administration

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

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

(c) The Administrator must—

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

(d)(1) The Administration has a Deputy Administrator, who shall be appointed by the President. In making an appointment, the President shall consider the fitness of the appointee to efficiently carry out the duties and powers of the office. The Deputy Administrator shall be a citizen of the United States and have experience in a field directly related to aviation. An officer on active duty in an armed force may be appointed as Deputy Administrator. However, if the Administrator is a former regular officer of an armed force, the Deputy Administrator may not be an officer on active duty in an armed force, a retired regular officer of an armed force, or a former regular officer of an armed force.

(2) The annual rate of basic pay of the Deputy Administrator shall be set by the Secretary but shall not exceed the annual rate of basic pay

payable to the Administrator of the Federal Aviation Administration.

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

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

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

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

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

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

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

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

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

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

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

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

(C) may delegate, and authorize successive redelegations of, to an officer or employee of

the Administration any function, power, or duty conferred upon the Administrator, unless such delegation is prohibited by law; and

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

(3) REGULATIONS.—

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

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

(I) have an annual effect on the economy of \$250,000,000 or more or adversely affect in a substantial and material way the economy, a sector of the economy, produc-

tivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; or

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

(ii) In an emergency, the Administrator may issue a regulation described in clause (i) without prior approval by the Secretary, but any such emergency regulation is subject to ratification by the Secretary after it is issued and shall be rescinded by the Administrator within 5 days (excluding Saturdays, Sundays, and legal public holidays) after issuance if the Secretary fails to ratify its issuance.

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

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

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

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

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

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

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

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

(B) is a limited term appointee, limited emergency appointee, or noncareer ap-

pointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5; or

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

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

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

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

(2) In carrying out sections 40119, 44901, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, 44938(a) and (b), and 48107 of this title, paragraph (1)(A) of this subsection does not apply to duties and powers vested in the Director of Intelligence and Security by section 44931<sup>1</sup> of this title.

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

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

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

(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

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

<sup>1</sup> See References in Text note below.

- (A) \$9,653,000,000 for fiscal year 2012;
- (B) \$9,539,000,000 for fiscal year 2013;
- (C) \$9,596,000,000 for fiscal year 2014; and
- (D) \$9,653,000,000 for fiscal year 2015.

Such sums shall remain available until expended.

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

(A) Such sums as may be necessary for fiscal years 2012 through 2015 to carry out and expand the Air Traffic Control Collegiate Training Initiative.

(B) Such sums as may be necessary for fiscal years 2012 through 2015 for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska's main aviation corridors.

(C) Such sums as may be necessary for fiscal years 2012 through 2015 to carry out the Aviation Safety Reporting System and the development and maintenance of helicopter approach procedures.

(3) ADMINISTERING PROGRAM WITHIN AVAILABLE FUNDING.—Notwithstanding any other provision of law, in each of fiscal years 2012 through 2015, if the Secretary determines that the funds appropriated under paragraph (1) are insufficient to meet the salary, operations, and maintenance expenses of the Federal Aviation Administration, as authorized by this section, the Secretary shall reduce non-safety-related activities of the Administration as necessary to reduce such expenses to a level that can be met by the funding available under paragraph (1).

(l) PERSONNEL AND SERVICES.—

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

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

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

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

(5) VOLUNTARY SERVICES.—

(A) GENERAL RULE.—In exercising the authority to accept gifts and voluntary serv-

ices under section 326 of this title, and without regard to section 1342 of title 31, the Administrator may not accept voluntary and uncompensated services if such services are used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

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

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

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

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

(n) ACQUISITION.—

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

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

(i) air traffic control facilities and equipment;

(ii) research and testing sites and facilities; and

(iii) such other real and personal property (including office space and patents), or any interest therein, within and outside

the continental United States as the Administrator considers necessary;

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

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

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

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

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

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

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

(A) a designee of the Secretary of Transportation;

(B) a designee of the Secretary of Defense;

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

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

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

(D) 1 member appointed, from among individuals who are the leaders of their respective unions of air traffic control system employees, by the Secretary of Transportation.

(3) QUALIFICATIONS.—No officer or employee of the United States Government may be ap-

pointed to the Council under paragraph (2)(C) or to the Air Traffic Services Committee.

(4) FUNCTIONS.—

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

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

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

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

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

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

(6) ADMINISTRATIVE MATTERS.—

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

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

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

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

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

(C) TERMS FOR AIR TRAFFIC SERVICES COMMITTEE MEMBERS.—The members appointed to the Air Traffic Services Committee shall

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

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

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

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

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

(H) CLAIMS AGAINST MEMBERS OF COMMITTEE.—

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

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

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

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

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

(I) ETHICAL CONSIDERATIONS.—

(i) FINANCIAL DISCLOSURE.—During the entire period that an individual is serving as a member of the Committee, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act; except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

(ii) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, an

individual who is a member of the Committee shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Committee; except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

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

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

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

(7) AIR TRAFFIC SERVICES COMMITTEE.—

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

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

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

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

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

(I) Management of large service organizations.

(II) Customer service.

(III) Management of large procurements.

(IV) Information and communications technology.

(V) Organizational development.

(VI) Labor relations.

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

(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aero-

nautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

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

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

(D) GENERAL RESPONSIBILITIES.—

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

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

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

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

(I) a mission and objectives;

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

(III) annual and long-range strategic plans.

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

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

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

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

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

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

(III) plans for training and education.

(iv) MANAGEMENT.—To—

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

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

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

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

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

(v) BUDGET.—To—

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

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

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

(F) COMMITTEE PERSONNEL MATTERS AND EXPENSES.—

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

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

(G) ADMINISTRATIVE MATTERS.—

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

(I) establishing committees;

(II) setting meeting places and times;

(III) establishing meeting agendas; and

(IV) developing rules for the conduct of business.

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

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

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

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

(q) AIRCRAFT NOISE OMBUDSMAN.—

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

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

(A) be appointed by the Administrator;

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

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

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

(r) CHIEF OPERATING OFFICER.—

(1) IN GENERAL.—

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

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

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

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

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

(2) COMPENSATION.—

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

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

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

(4) ANNUAL PERFORMANCE REPORT.—The Chief Operating Officer shall prepare and transmit to the Secretary of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transpor-

tation of the Senate an annual management report containing such information as may be prescribed by the Secretary.

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

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

(i) a mission and objectives;

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

(iii) annual and long-range strategic plans; and

(iv) methods of the Administration to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control.

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

(i) modernization of the air traffic control system;

(ii) increasing productivity or implementing cost-saving measures;

(iii) training and education; and

(iv) the management of cost-reimbursable contracts.

(C) BUDGET.—To—

(i) develop a budget request of the Administration related to the air traffic control system;

(ii) submit such budget request to the Administrator and the Committee; and

(iii) ensure that the budget request supports the agency's annual and long-range strategic plans for air traffic control services.

(s) CHIEF NEXTGEN OFFICER.—

(1) IN GENERAL.—

(A) APPOINTMENT.—There shall be a Chief NextGen Officer appointed by the Administrator, with the approval of the Secretary. The Chief NextGen Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

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

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

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

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

(2) COMPENSATION.—

(A) IN GENERAL.—The Chief NextGen Officer shall be paid at an annual rate of basic

pay to be determined by the Administrator. The annual rate may not exceed the annual compensation paid under section 102 of title 3. The Chief NextGen Officer shall be subject to the postemployment provisions of section 207 of title 18 as if the position of Chief NextGen Officer were described in section 207(c)(2)(A)(i) of that title.

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

(3) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief NextGen Officer, in consultation with the Federal Aviation Management Advisory Council, shall enter into an annual performance agreement that sets forth measurable organization and individual goals for the Chief NextGen Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis.

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

(5) RESPONSIBILITIES.—The responsibilities of the Chief NextGen Officer include the following:

(A) Implementing NextGen activities and budgets across all program offices of the Federal Aviation Administration.

(B) Coordinating the implementation of NextGen activities with the Office of Management and Budget.

(C) Reviewing and providing advice on the Administration's modernization programs, budget, and cost accounting system with respect to NextGen.

(D) With respect to the budget of the Administration—

(i) developing a budget request of the Administration related to the implementation of NextGen;

(ii) submitting such budget request to the Administrator; and

(iii) ensuring that the budget request supports the annual and long-range strategic plans of the Administration with respect to NextGen.

(E) Consulting with the Administrator on the Capital Investment Plan of the Administration prior to its submission to Congress.

(F) Developing an annual NextGen implementation plan.

(G) Ensuring that NextGen implementation activities are planned in such a manner

as to require that system architecture is designed to allow for the incorporation of novel and currently unknown technologies into NextGen in the future and that current decisions do not bias future decisions unfairly in favor of existing technology at the expense of innovation.

(H) Coordinating with the NextGen Joint Planning and Development Office with respect to facilitating cooperation among all Federal agencies whose operations and interests are affected by the implementation of NextGen.

(6) EXCEPTION.—If the Administrator appoints as the Chief NextGen Officer, pursuant to paragraph (1)(A), an Executive Schedule employee covered by section 5315 of title 5, then paragraphs (1)(B), (1)(C), (2), and (3) of this subsection shall not apply to such employee.

(7) NEXTGEN DEFINED.—For purposes of this subsection, the term "NextGen" means the Next Generation Air Transportation System.

(t) AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.—

(1) ESTABLISHMENT.—There is established in the Federal Aviation Administration (in this subsection referred to as the "Agency") an Aviation Safety Whistleblower Investigation Office (in this subsection referred to as the "Office").

(2) DIRECTOR.—

(A) APPOINTMENT.—The head of the Office shall be the Director, who shall be appointed by the Secretary of Transportation.

(B) QUALIFICATIONS.—The Director shall have a demonstrated ability in investigations and knowledge of or experience in aviation.

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

(D) VACANCIES.—Any individual appointed to fill a vacancy in the position of the Director occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

(3) COMPLAINTS AND INVESTIGATIONS.—

(A) AUTHORITY OF DIRECTOR.—The Director shall—

(i) receive complaints and information submitted by employees of persons holding certificates issued under title 14, Code of Federal Regulations (if the certificate holder does not have a similar in-house whistleblower or safety and regulatory noncompliance reporting process) and employees of the Agency concerning the possible existence of an activity relating to a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety;

(ii) assess complaints and information submitted under clause (i) and determine whether a substantial likelihood exists that a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety has occurred; and

(iii) based on findings of the assessment conducted under clause (ii), make recom-

mendations to the Administrator of the Agency, in writing, regarding further investigation or corrective actions.

(B) DISCLOSURE OF IDENTITIES.—The Director shall not disclose the identity of an individual who submits a complaint or information under subparagraph (A)(i) unless—

(i) the individual consents to the disclosure in writing; or

(ii) the Director determines, in the course of an investigation, that the disclosure is required by regulation, statute, or court order, or is otherwise unavoidable, in which case the Director shall provide the individual reasonable advanced notice of the disclosure.

(C) INDEPENDENCE OF DIRECTOR.—The Secretary, the Administrator, or any officer or employee of the Agency may not prevent or prohibit the Director from initiating, carrying out, or completing any assessment of a complaint or information submitted under subparagraph (A)(i) or from reporting to Congress on any such assessment.

(D) ACCESS TO INFORMATION.—In conducting an assessment of a complaint or information submitted under subparagraph (A)(i), the Director shall have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material of the Agency necessary to determine whether a substantial likelihood exists that a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety may have occurred.

(4) RESPONSES TO RECOMMENDATIONS.—Not later than 60 days after the date on which the Administrator receives a report with respect to an investigation, the Administrator shall respond to a recommendation made by the Director under paragraph (3)(A)(iii) in writing and retain records related to any further investigations or corrective actions taken in response to the recommendation.

(5) INCIDENT REPORTS.—If the Director determines there is a substantial likelihood that a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety has occurred that requires immediate corrective action, the Director shall report the potential violation expeditiously to the Administrator and the Inspector General of the Department of Transportation.

(6) REPORTING OF CRIMINAL VIOLATIONS TO INSPECTOR GENERAL.—If the Director has reasonable grounds to believe that there has been a violation of Federal criminal law, the Director shall report the violation expeditiously to the Inspector General.

(7) ANNUAL REPORTS TO CONGRESS.—Not later than October 1 of each year, the Director shall submit to Congress a report containing—

(A) information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period;

(B) summaries of those submissions;

(C) summaries of further investigations and corrective actions recommended in response to the submissions; and

(D) summaries of the responses of the Administrator to such recommendations.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2416; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 100-591, §5(a), Nov. 3, 1988, 102 Stat. 3013; Pub. L. 101-508, title IX, §9106, Nov. 5, 1990, 104 Stat. 1388-355; Pub. L. 101-604, title I, §101(c), Nov. 16, 1990, 104 Stat. 3068; Pub. L. 102-581, title I, §104, Oct. 31, 1992, 106 Stat. 4877; Pub. L. 103-272, §§4(j)(3), 5(m)(4), July 5, 1994, 108 Stat. 1365, 1375; Pub. L. 103-305, title I, §103, title II, §201, Aug. 23, 1994, 108 Stat. 1571, 1581; Pub. L. 104-264, title I, §103(a), title II, §§223(a), 224-230, 276(c), title XII, §1210, Oct. 9, 1996, 110 Stat. 3216, 3229-3234, 3282; Pub. L. 104-287, §5(1), Oct. 11, 1996, 110 Stat. 3388; Pub. L. 105-102, §3(c)(3), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106-6, §4, Mar. 31, 1999, 113 Stat. 10; Pub. L. 106-181, title I, §103(a), title III, §§302(a)-(c), 303, 305, 306, 307(c)(1), title VII, §701, Apr. 5, 2000, 114 Stat. 66, 115-118, 121, 123, 124, 126, 154; Pub. L. 106-528, §8(a), Nov. 22, 2000, 114 Stat. 2522; Pub. L. 107-71, title I, §101(c)(3), (d), Nov. 19, 2001, 115 Stat. 602, 603; Pub. L. 108-176, title I, §103(a),(b), title II, §§201-204, 224(c), Dec. 12, 2003, 117 Stat. 2495, 2496, 2522-2526, 2528; Pub. L. 110-330, §6, Sept. 30, 2008, 122 Stat. 3719; Pub. L. 111-12, §6, Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111-69, §6, Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111-116, §6, Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111-153, §6, Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111-161, §6, Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111-197, §6, July 2, 2010, 124 Stat. 1354; Pub. L. 111-216, title I, §105, Aug. 1, 2010, 124 Stat. 2350; Pub. L. 112-30, title II, §206, Sept. 16, 2011, 125 Stat. 359; Pub. L. 112-91, §6, Jan. 31, 2012, 126 Stat. 4; Pub. L. 112-95, title I, §103, title II, §§203, 204, title III, §§306(b), 341, Feb. 14, 2012, 126 Stat. 16, 37, 61, 78; Pub. L. 112-166, §2(k)(2), Aug. 10, 2012, 126 Stat. 1286; Pub. L. 113-188, title XV, §1501(a), Nov. 26, 2014, 128 Stat. 2023.)

HISTORICAL AND REVISION NOTES  
PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
106(a) .....	49:1341(a) (1st sentence).  49:1652(e)(1) (related to FAA).	Aug. 23, 1958, Pub. L. 85-726, §§301(a), (b), 302(a), (b), 72 Stat. 744; Aug. 14, 1964, Pub. L. 88-426, §305(16) (B), (C), 78 Stat. 424. Oct. 15, 1966, Pub. L. 89-670, §3(e) (related to FAA), 80 Stat. 932.
106(b) .....	49:1341(a) (2d sentence), (b) (1st sentence less 1st-10th words). 49:1342(a) (1st sentence), (b) (1st sentence less 1st-11th words). 49:1652(e) (related to FAA) (1) (less 1st sentence), (3) (last sentence).	
106(c) .....	49:1341(b) (1st sentence 1st-10th words, 2d sentence). 49:1652(e)(2) (related to Administrator).	
106(d) .....	49:1342(b) (1st sentence 1st-11th words, 2d sentence, 4th-6th sentences). 49:1652(e)(2) (1st sentence less Administrator).	

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

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

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

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

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

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

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

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

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

In subsection (d)(3), the words “acceptance of, and” are omitted as unnecessary. The word “held” is substituted for “may occupy or hold” to eliminate unnecessary words. The words “right or benefit” are substituted for “emolument, perquisite, right, privilege, or benefit” to eliminate unnecessary words. The words “incident to or” before “arising” are omitted as surplus.

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

In subsection (g), the words “are hereby transferred to” in 49:1655(c)(1) are omitted as executed. The words “carry out” are substituted for “it shall be his duty to

exercise” in 49:1655(c)(1) for clarity, consistency, and to eliminate surplus words. The words “In addition to such functions, powers, and duties as are specified in this chapter” in 49:1652(e)(3) are omitted as unnecessary because of the restatement.

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

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

PUB. L. 103-272

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

REFERENCES IN TEXT

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

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

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

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

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

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

The Ethics in Government Act of 1978, referred to in subsec. (p)(6)(I)(i), is Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1824. Title I of the Act is set out in the Appendix to Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95-521 in the Appendix to Title 5 and Tables.

AMENDMENTS

2014—Subsec. (p)(7)(H), (I). Pub. L. 113-188 redesignated subpar. (I) as (H) and struck out former subsec. (H) which related to reports and other actions by the Air Traffic Services Committee, Administrator, and Comptroller General.

2012—Subsec. (b). Pub. L. 112-166, §2(k)(2)(A), substituted “, who shall be appointed” for “. The Administration has a Deputy Administrator. They are appointed”.

Subsec. (d)(1). Pub. L. 112-166, §2(k)(2)(B), substituted “The Administration has a Deputy Administrator, who

shall be appointed by the President. In making an appointment, the President shall consider the fitness of the appointee to efficiently carry out the duties and powers of the office. The Deputy Administrator shall” for “The Deputy Administrator must”.

Subsec. (k)(1). Pub. L. 112–95, §103(a), added subpars. (A) to (D) and struck out former subpars. (A) to (H) which authorized appropriations for fiscal years 2004 through 2011 and for the period beginning Oct. 1, 2011, and ending Feb. 17, 2012.

Subsec. (k)(1)(H). Pub. L. 112–91 amended subpar. (H) generally. Prior to amendment, subpar. (H) read as follows: “\$3,197,315,080 for the period beginning on October 1, 2011, and ending on January 31, 2012.”

Subsec. (k)(2). Pub. L. 112–95, §103(b), redesignated subpars. (E) to (G) as (A) to (C), respectively, substituted “2012 through 2015” for “2004 through 2007” in subpars. (A) to (C), and struck out former subpars. (A) to (D) which read as follows:

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

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

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

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

Subsec. (k)(2)(C). Pub. L. 112–95, §306(b), inserted “and the development and maintenance of helicopter approach procedures” before period at end.

Subsec. (k)(3). Pub. L. 112–95, §103(c), added par. (3).

Subsec. (m). Pub. L. 112–95, §203, in last sentence, inserted “with or” after “from the Administration,”.

Subsec. (s). Pub. L. 112–95, §204, added subsec. (s).

Subsec. (t). Pub. L. 112–95, §341, added subsec. (t).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Such sums shall remain available until expended.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (p)(7)(E). Pub. L. 108-176, § 202(14)(I), struck out concluding provisions which read as follows: “The Secretary shall submit the budget request referred to in clause (v)(II) for any fiscal year to the President who shall transmit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President’s annual budget request for the Federal Aviation Administration for such fiscal year.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (r)(4). Pub. L. 108-176, § 203(4), substituted “Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate” for “Transportation and Congress”.

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

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

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

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

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

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

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

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

2000—Subsec. (f)(3)(A). Pub. L. 106-181, § 306, inserted at end “On February 1 and August 1 of each year the

Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a letter listing each deadline the Administrator missed under this subparagraph during the 6-month period ending on such date, including an explanation for missing the deadline and a projected date on which the action that was subject to the deadline will be taken."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (l). Pub. L. 104-264, §225, added subsec. (l).

Subsec. (l)(6). Pub. L. 104-264, §226, added par. (6).

Subsec. (m). Pub. L. 104-264, §227, added subsec. (m).

Subsec. (n). Pub. L. 104-264, §228, added subsec. (n).

Subsec. (o). Pub. L. 104-264, §229, added subsec. (o).

Subsec. (p). Pub. L. 104-264, §230, added subsec. (p).

Subsec. (q). Pub. L. 104-264, §1210, added subsec. (q).

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

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

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

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

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

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

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

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

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

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

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

the Aviation Security Improvement Act of 1990),” after “312-314.”

Subsec. (k). Pub. L. 101-508 added subsec. (k).  
 1988—Subsec. (j). Pub. L. 100-591 added subsec. (j).  
 1984—Subsecs. (g)(1), (h). Pub. L. 98-216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112-166, set out as a note under section 113 of Title 6, Domestic Security.

#### EFFECTIVE DATE OF 2003 AMENDMENT

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

#### EFFECTIVE DATE OF 2000 AMENDMENTS

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

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

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

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

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

“(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF SUBCOMMITTEE.—Nothing in this section shall be construed to invalidate the actions and authority of the Federal Aviation Administration prior to the appointment of the members of the Air Traffic Services Subcommittee.”

#### EFFECTIVE DATE OF 1997 AMENDMENT

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

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

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-264, §3, Oct. 9, 1996, 110 Stat. 3215, provided that:

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

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

Pub. L. 104-264, title II, §203, Oct. 9, 1996, 110 Stat. 3227, provided that: “The provisions of this title [enacting sections 40121, 40122, 45301, 45303, 48111, and 48201 of this title, amending this section and section 41742 of this title, renumbering section 45303 of this title as section 45304, repealing section 45301 of this title, and enacting provisions set out as notes under this section and sections 40101, 40110, and 41742 of this title] and the amendments made by this title shall take effect on the date that is 30 days after the date of the enactment of this Act [Oct. 9, 1996].”

#### DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

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

#### EDUCATIONAL REQUIREMENTS

Pub. L. 112-95, title II, §223, Feb. 14, 2012, 126 Stat. 55, provided that: “The Administrator of the Federal Aviation Administration shall make payments to the Department of Defense for the education of dependent children of those Administration employees in Puerto Rico and Guam as they are subject to transfer by policy and practice and meet the eligibility requirements of section 2164(c) of title 10, United States Code.”

#### FAA REVIEW AND REFORM

Pub. L. 112-95, title VIII, §812, Feb. 14, 2012, 126 Stat. 124, provided that:

“(a) AGENCY REVIEW.—Not later than 60 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall undertake a thorough review of each program, office, and organization within the Administration, including the Air Traffic Organization, to identify—

“(1) duplicative positions, programs, roles, or offices;

“(2) wasteful practices;

“(3) redundant, obsolete, or unnecessary functions;

“(4) inefficient processes; and

“(5) ineffectual or outdated policies.

“(b) ACTIONS TO STREAMLINE AND REFORM FAA.—Not later than 120 days after the date of enactment of this Act, the Administrator shall undertake such actions as may be necessary to address the Administrator’s findings under subsection (a), including—

“(1) consolidating, phasing-out, or eliminating duplicative positions, programs, roles, or offices;

“(2) eliminating or streamlining wasteful practices;

“(3) eliminating or phasing-out redundant, obsolete, or unnecessary functions;

“(4) reforming and streamlining inefficient processes so that the activities of the Administration are completed in an expedited and efficient manner; and

“(5) reforming or eliminating ineffectual or outdated policies.

“(c) AUTHORITY.—Notwithstanding any other provision of law, the Administrator shall have the authority to undertake the actions required under subsection (b).

“(d) REPORT TO CONGRESS.—Not later than 150 days after the date of enactment of this Act, the Administrator shall submit to Congress a report on the actions taken by the Administrator under this section, including any recommendations for legislative or administrative actions.”

#### ORPHAN AVIATION EARMARKS

Pub. L. 112-95, title VIII, §825, Feb. 14, 2012, 126 Stat. 131, provided that:

“(a) EARMARK DEFINED.—In this section, the term ‘earmark’ means a statutory provision or report language included primarily at the request of a Senator or a Member, Delegate, or Resident Commissioner of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budg-

et authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, or other expenditure with or to an entity or a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

“(b) RESCISSION.—If any earmark relating to the Federal Aviation Administration has more than 90 percent of applicable appropriated amounts remaining available for obligation at the end of the 9th fiscal year beginning after the fiscal year in which those amounts were appropriated, the unobligated portion of those amounts is rescinded effective at the end of that 9th fiscal year, except that the Administrator of the Federal Aviation Administration may delay any such rescission if the Administrator determines that an obligation with respect to those amounts is likely to occur during the 12-month period beginning on the last day of that 9th fiscal year.

“(c) IDENTIFICATION AND REPORT.—

“(1) AGENCY IDENTIFICATION.—At the end of each fiscal year, the Administrator shall identify and report to the Director of the Office of Management and Budget every earmark related to the Administration and with respect to which there is an unobligated balance of appropriated amounts.

“(2) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], and annually thereafter, the Director shall submit to Congress and make available to the public on the Internet Web site of the Office a report that includes—

“(A) a listing of each earmark related to the Administration and with respect to which there is an unobligated balance of appropriated amounts, which shall include the amount of the original earmark, the amount of the unobligated balance related to that earmark, and the date on which the funding expires, if applicable;

“(B) the number of rescissions under subsection (b) and the savings resulting from those rescissions for the previous fiscal year; and

“(C) a listing of earmarks related to the Administration with amounts scheduled for rescission at the end of the current fiscal year.”

#### FEDERAL AVIATION ADMINISTRATION SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM

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

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

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

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

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

“(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education, as a junior or senior undergraduate or graduate student, in an academic field or discipline described in the list made available under subsection (d);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(B) the interest on the amounts of such awards which would be payable if at the time the awards

were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States, multiplied by 3.

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

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

“(i) For purposes of this section—

“(1) the term ‘cost of attendance’ has the meaning given that term in section 472 of the Higher Education Act of 1965 [20 U.S.C. 1087ll];

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

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

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

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

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

#### INTERNET AVAILABILITY OF INFORMATION

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

#### FINDINGS

Pub. L. 104-264, title II, §221, Oct. 9, 1996, 110 Stat. 3227, provided that: “Congress finds the following:

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

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

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

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

“(5) Congress must keep its commitment to the users of the national air transportation system by seeking to spend all moneys collected from them each year and deposited into the Airport and Airway Trust Fund. Existing surpluses representing past receipts must also be spent for the purposes for which such funds were collected.

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

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

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

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

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

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

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

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

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

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

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

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

#### PURPOSES

Pub. L. 104-264, title II, §222, Oct. 9, 1996, 110 Stat. 3229, provided that: “The purposes of this title [see Effective Date of 1996 Amendment note set out above] are—

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

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

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

“(4) to make the Administration a more efficient and effective organization, able to meet the needs of

a dynamic, growing industry, and to ensure the safety of the traveling public.”

#### PRESERVATION OF EXISTING AUTHORITY

Pub. L. 104-264, title II, §223(b), Oct. 9, 1996, 110 Stat. 3230, provided that: “Nothing in this title [see Effective Date of 1996 Amendment note set out above] or the amendments made by this title limits any authority granted to the Administrator by statute or by delegation that was in effect on the day before the date of the enactment of this Act [Oct. 9, 1996].”

#### PERSONNEL MANAGEMENT SYSTEM FOR FEDERAL AVIATION ADMINISTRATION

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

#### DEPENDENTS OF FEDERAL AVIATION ADMINISTRATION PERSONNEL

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

Similar provisions were contained in the following prior appropriation acts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### AVIATION SAFETY COMMISSION

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

#### APPOINTMENT OF RETIRED MILITARY OFFICER AS ADMINISTRATOR

Pub. L. 102-308, June 26, 1992, 106 Stat. 273, provided: “That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint General Thomas C. Richards, United States Air Force, Retired, to the Office of Administrator of the Federal Aviation Administration. General Richards’ appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Air Force, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, General Richards shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Air Force, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Air

Force, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

term FAA strategies for the aviation system as a whole.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Pub. L. 104-264, title II, §202, Oct. 9, 1996, 110 Stat. 3227, provided that: “In this title [see Effective Date of 1996 Amendment note set out above], the following definitions apply:

“(1) ADMINISTRATION.—The term ‘Administration’ means the Federal Aviation Administration.

“(2) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Aviation Administration.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.”

**§ 107. Federal Transit Administration**

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

AMENDMENTS

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

CHANGE OF NAME

Pub. L. 102-240, title III, §3004(a), (b), Dec. 18, 1991, 105 Stat. 2088, provided that:

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

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

**§ 108. Pipeline and Hazardous Materials Safety Administration**

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

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

(c) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in pipeline safety, hazardous materials safety, or other

transportation safety. The Administrator shall report directly to the Secretary of Transportation.

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

PUB. L. 97-449

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

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

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

PUB. L. 103-272

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

AMENDMENTS

2004—Pub. L. 108-426 amended section catchline and text generally, substituting provisions relating to Pipe-

line and Hazardous Materials Safety Administration for provisions relating to Coast Guard.

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

#### SAVINGS PROVISIONS

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

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

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

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

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

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

“(d) SUITS.—

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

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

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

“(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his or her official capacity shall abate by reason of the enactment of this Act.

“(f) EXERCISE OF AUTHORITIES.—An officer or employee of the Department, for purposes of performing a

function transferred by this Act, may exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function by this Act.

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

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

#### TRANSFER OF DUTIES AND POWERS OF RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

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

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

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

#### REPORTS

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

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

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

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

“(b) REPORTS BY THE SECRETARY.—

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

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

### § 109. Maritime Administration

(a) ORGANIZATION AND MISSION.—The Maritime Administration is an administration in the De-

partment of Transportation. The mission of the Maritime Administration is to foster, promote, and develop the merchant maritime industry of the United States.

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

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

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

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

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

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

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

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

(A) carry out the Secretary's duties and powers under this section, subtitle V of title

46, and all other Maritime Administration programs; and

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

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

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

(j) AUTHORIZATION OF APPROPRIATIONS.—

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

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

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

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

(C) costs of national defense features;

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

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

(F) the Vessel Operations Revolving Fund;

(G) National Defense Reserve Fleet expenses;

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

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

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

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2417; Pub. L. 103-272, §5(m)(5), July 5, 1994, 108 Stat. 1375; Pub. L. 109-304, §12, Oct. 6, 2006, 120 Stat. 1698; Pub. L. 111-84, div. C, title XXXV, §3508, Oct. 28, 2009, 123 Stat. 2721; Pub. L. 111-383, div. A, title X, §1075(d)(26), Jan. 7, 2011, 124 Stat. 4374; Pub. L. 112-213, title IV, §409, Dec. 20, 2012, 126 Stat. 1572.)

HISTORICAL AND REVISION NOTES  
PUB. L. 97-449

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

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

PUB. L. 109-304

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

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

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

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

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

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

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

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

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-213 substituted “Organization and Mission” for “Organization” in heading and inserted at end of text “The mission of the Maritime Administration is to foster, promote, and develop the merchant maritime industry of the United States.”

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title X, §1075(d), Jan. 7, 2011, 124 Stat. 4372, provided that the amendment by section 1075(d)(26) is effective as of Oct. 28, 2009, and as if included in Pub. L. 111-84 as enacted.

REFERENCES IN OTHER FEDERAL LAWS TO FUNCTIONS OR OFFICES TRANSFERRED

Pub. L. 97-31, §10, Aug. 6, 1981, 95 Stat. 153, provided that: “With respect to any function or office transferred by this Act [see Tables for classification] and exercised on or after the effective date of this Act [Aug. 6, 1981], reference in any other Federal law to the Maritime Administration or any of its predecessor agencies or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary of Transportation, other official, or component of the Department of Transportation to which this Act transfers such functions.”

EXPANSION OF THE MARINE VIEW SYSTEM

Pub. L. 111-84, div. C, title XXXV, §3516, Oct. 28, 2009, 123 Stat. 2725, provided that:

- “(a) DEFINITIONS.—In this section:
  - “(1) MARINE TRANSPORTATION SYSTEM.—The term ‘marine transportation system’ means the navigable water transportation system of the United States, including the vessels, ports (and intermodal connections thereto), and shipyards and other vessel repair facilities that are components of that system.
  - “(2) MARINE VIEW SYSTEM.—The term ‘Marine View system’ means the information system of the Maritime Administration known as Marine View.
- “(b) PURPOSES.—The purposes of this section are—
  - “(1) to expand the Marine View system; and
  - “(2) to provide support for the strategic requirements of the marine transportation system and its contribution to the economic viability of the United States.
- “(c) EXPANSION OF MARINE VIEW SYSTEM.—To accomplish the purposes of this section, the Secretary of Transportation shall expand the Marine View system so that such system is able to identify, collect, integrate, secure, protect, store, and securely distribute throughout the marine transportation system information that—
  - “(1) provides access to many disparate marine transportation system data sources;
  - “(2) enables a system-wide view of the marine transportation system;
  - “(3) fosters partnerships between the Government of the United States and private entities;
  - “(4) facilitates accurate and efficient modeling of the entire marine transportation system environment;
  - “(5) monitors and tracks threats to the marine transportation system, including areas of severe weather or reported piracy; and
  - “(6) provides vessel tracking and rerouting, as appropriate, to ensure that the economic viability of the United States waterways is maintained.”

**§ 110. Saint Lawrence Seaway Development Corporation**

(a) The Saint Lawrence Seaway Development Corporation established under section 1 of the Act of May 13, 1954 (33 U.S.C. 981), is subject to the direction and supervision of the Secretary of Transportation.

(b) The Administrator of the Corporation appointed under section 2 of the Act of May 13, 1954 (33 U.S.C. 982), reports directly to the Secretary.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2418; Pub. L. 103-272, §4(j)(5)(A), July 5, 1994, 108 Stat. 1366.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
110(a) .....	(no source).	
110(b) .....	33:981 (note).	Oct. 15, 1966, Pub. L. 89-670, §8(g)(2), 80 Stat. 943.

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

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-272 substituted “Saint Lawrence” for “St. Lawrence”.

**§ 111. Repealed. Pub. L. 112-141, div. E, title II, § 52011(c)(1), July 6, 2012, 126 Stat. 895]**

Section, added Pub. L. 102-240, title VI, §6006(a), Dec. 18, 1991, 105 Stat. 2172; amended Pub. L. 104-287, §5(2), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 104-324, title XI, §1131, Oct. 19, 1996, 110 Stat. 3985; Pub. L. 105-130, §4(b)(1), Dec. 1, 1997, 111 Stat. 2556; Pub. L. 105-178, title V, §5109(a), June 9, 1998, 112 Stat. 437; Pub. L. 108-426, §3(a), (b), Nov. 30, 2004, 118 Stat. 2424, 2425; Pub. L. 109-59, title V, §5601(a), Aug. 10, 2005, 119 Stat. 1833, established the Bureau of Transportation Statistics. See chapter 63 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

**§ 112. Office of the Assistant Secretary for Research and Technology of the Department of Transportation**

- (a) ESTABLISHMENT.—The Office of the Assistant Secretary for Research and Technology of the Department of Transportation shall be an administration in the Department of Transportation.
- (b) ADMINISTRATOR.—
  - (1) APPOINTMENT.—The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.
  - (2) REPORTING.—The Administrator shall report directly to the Secretary.
- (c) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary of Transportation. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.
- (d) POWERS AND DUTIES OF THE ADMINISTRATOR.—The Administrator shall carry out—
  - (1) powers and duties prescribed by the Secretary for—
    - (A) coordination, facilitation, and review of the Department's research and development programs and activities;
    - (B) advancement, and research and development, of innovative technologies, including intelligent transportation systems;
    - (C) comprehensive transportation statistics research, analysis, and reporting;
    - (D) education and training in transportation and transportation-related fields; and
    - (E) activities of the Volpe National Transportation Center; and

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

(e) ADMINISTRATIVE AUTHORITIES.—The Administrator may enter into grants and cooperative agreements with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons—

(1) to conduct research into transportation service and infrastructure assurance; and

(2) to carry out other research activities of the Administration.

(f) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2013 and 2014, the Administrator is authorized to expend not more than 1 ½ percent of the amounts authorized to be appropriated for necessary expenses for administration and operations of the Research and Innovative Technology Administration for the coordination, evaluation, and oversight of the programs administered by the Administration.

(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

(B) Federal laboratories; and

(C) other Federal agencies.

(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

(3) FEDERAL SHARE.—

(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out under paragraph (2) shall not exceed 50 percent.

(B) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

(C) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subparagraph (A).

(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a con-

tract, grant, cooperative research and development agreement, or other agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41 shall not apply to a contract, grant, or other agreement entered into under this section.

(Added Pub. L. 102-508, title IV, § 401(a), Oct. 24, 1992, 106 Stat. 3310; amended Pub. L. 103-429, § 6(1), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 108-426, § 4(a), Nov. 30, 2004, 118 Stat. 2425; Pub. L. 109-59, title VII, § 7301, Aug. 10, 2005, 119 Stat. 1914; Pub. L. 112-141, div. E, title II, § 52012, July 6, 2012, 126 Stat. 896; Pub. L. 113-76, div. L, title I, Jan. 17, 2014, 128 Stat. 574.)

#### REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (g)(4), is Pub. L. 96-480, Oct. 21, 1980, 94 Stat. 2311, which is classified generally to chapter 63 (§ 3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

#### AMENDMENTS

2012-Subsecs. (f), (g). Pub. L. 112-141 added subsecs. (f) and (g).

2005—Subsec. (e). Pub. L. 109-59 added subsec. (e).

2004—Pub. L. 108-426, § 4(a)(1), substituted “Research and Innovative Technology Administration” for “Research and Special Programs Administration” in section catchline.

Subsec. (a). Pub. L. 108-426, § 4(a)(2), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “There is established in the Department of Transportation a Research and Special Programs Administration.”

Subsec. (d). Pub. L. 108-426, § 4(a)(3), added subsec. (d) and struck out heading and text of former subsec. (d) which related to the responsibilities of the Administrator of the Research and Special Programs Administration.

Subsec. (e). Pub. L. 108-426, § 4(a)(4), struck out heading and text of subsec. (e). Text read as follows: “Nothing in this section shall affect any delegation of authority, regulation, order, approval, exemption, waiver, contract, or other administrative act of the Secretary with respect to laws administered through the Research and Special Programs Administration of the Department of Transportation on October 24, 1992.”

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

#### CHANGE OF NAME

“Office of the Assistant Secretary for Research and Technology of the Department of Transportation” substituted for “Research and Innovative Technology Administration” in section catchline and subsec. (a) on authority of title I of div. L. of Pub. L. 113-76, set out in part as a note below.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effec-

tive and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION  
PROGRAMS ADMINISTERED BY SECRETARY OF TRANSPORTATION

Pub. L. 108-426, §4(b), Nov. 30, 2004, 118 Stat. 2425, as amended by Pub. L. 113-76, div. L, title I, Jan. 17, 2014, 128 Stat. 574, provided that:

“(1) IN GENERAL.—Nothing in this Act [see Short Title of 2004 Amendment note set out under section 101 of this title] shall grant any authority to the Office of the Assistant Secretary for Research and Technology of the Department of Transportation over research and other programs, activities, standards, or regulations administered by the Secretary of Transportation through the National Highway Traffic Safety Administration.

“(2) APPLICABILITY.—Paragraph (1) shall not apply to the research and other programs, activities, standards, or regulations provided for in highway and traffic safety programs, administered by the Secretary through the National Highway Traffic Safety Administration, in title 23, United States Code, and chapter 303 of title 49, United States Code, as in effect on the date of enactment of this Act [Nov. 30, 2004].”

TRANSFER OF DUTIES AND POWERS

Pub. L. 113-76, div. L, title I, Jan. 17, 2014, 128 Stat. 574, provided in part: “That notwithstanding any other provision of law, the powers and duties, functions, authorities and personnel of the Research and Innovative Technology Administration are hereby transferred to the Office of the Assistant Secretary for Research and Technology in the Office of the Secretary: *Provided further*, That notwithstanding section 102 of title 49 and section 5315 of title 5, United States Code, there shall be an Assistant Secretary for Research and Technology within the Office of the Secretary, appointed by the President with the advice and consent of the Senate, to lead such office: *Provided further*, That any reference in law, regulation, judicial proceedings, or elsewhere to the Research and Innovative Technology Administration shall be deemed to be a reference to the Office of the Assistant Secretary for Research and Technology of the Department of Transportation.”

[Pub. L. 113-235, div. K, title I, Dec. 16, 2014, 128 Stat. 2696, provided in part: “That any reference in law, regulation, judicial proceedings, or elsewhere to the Research and Innovative Technology Administration shall continue to be deemed to be a reference to the Office of the Assistant Secretary for Research and Technology of the Department of Transportation.”]

Pub. L. 108-426, §4(d), Nov. 30, 2004, 118 Stat. 2426, provided that: “The authority of the Research and Special Programs Administration, other than authority exercised under chapters 51, 57, 61, 601, and 603 of title 49, United States Code, is transferred to the Administrator of the Research and Innovative Technology Administration.”

For transfer of authority of the Research and Special Programs Administration exercised under chapters 51, 57, 61, 601, and 603 of this title to the Administrator of the Pipeline and Hazardous Materials Safety Administration, see section 2(b) of Pub. L. 108-426, set out as a note under section 108 of this title.

DEVELOPMENT OF UNDERGROUND UTILITY LOCATION  
TECHNOLOGIES

Pub. L. 102-508, title III, §306, Oct. 24, 1992, 106 Stat. 3309, provided that:

“(a) IN GENERAL.—The Secretary of Transportation shall carry out a research and development program on underground utility location technologies.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.”

§ 113. Federal Motor Carrier Safety Administration

(a) IN GENERAL.—The Federal Motor Carrier Safety Administration shall be an administration of the Department of Transportation.

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

(c) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in motor carrier safety. The Administrator shall report directly to the Secretary of Transportation.

(d) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(e) CHIEF SAFETY OFFICER.—The Administration shall have an Assistant Federal Motor Carrier Safety Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator shall be the Chief Safety Officer of the Administration. The Assistant Administrator shall carry out the duties and powers prescribed by the Administrator.

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

(1) duties and powers related to motor carriers or motor carrier safety vested in the Secretary by chapters 5, 51, 55, 57, 59, 133 through 149, 311, 313, 315, and 317 and by section 18 of the Noise Control Act of 1972 (42 U.S.C. 4917; 86 Stat. 1249-1250); except as otherwise delegated by the Secretary to any agency of the Department of Transportation other than the Federal Highway Administration, as of October 8, 1999; and

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

(g) LIMITATION ON TRANSFER OF POWERS AND DUTIES.—A duty or power specified in subsection (f)(1) may only be transferred to another part of the Department when specifically provided by law.

(h) EFFECT OF CERTAIN DECISIONS.—A decision of the Administrator involving a duty or power specified in subsection (f)(1) and involving notice and hearing required by law is administratively final.

(i) CONSULTATION.—The Administrator shall consult with the Federal Highway Administrator and with the National Highway Traffic Safety Administrator on matters related to highway and motor carrier safety.

(Added Pub. L. 106-159, title I, §101(a), Dec. 9, 1999, 113 Stat. 1750.)

EFFECTIVE DATE

Section effective Jan. 1, 2000, see section 107(a) of Pub. L. 106-159, set out as an Effective Date of 1999 Amendment note under section 104 of this title.

## FINDINGS

Pub. L. 106-159, §3, Dec. 9, 1999, 113 Stat. 1749, provided that: "Congress makes the following findings:

"(1) The current rate, number, and severity of crashes involving motor carriers in the United States are unacceptable.

"(2) The number of Federal and State commercial motor vehicle and operator inspections is insufficient and civil penalties for violators must be utilized to deter future violations.

"(3) The Department of Transportation is failing to meet statutorily mandated deadlines for completing rulemaking proceedings on motor carrier safety and, in some significant safety rulemaking proceedings, including driver hours-of-service regulations, extensive periods have elapsed without progress toward resolution or implementation.

"(4) Too few motor carriers undergo compliance reviews and the Department's data bases and information systems require substantial improvement to enhance the Department's ability to target inspection and enforcement resources toward the most serious safety problems and to improve States' ability to keep dangerous drivers off the roads.

"(5) Additional safety inspectors and inspection facilities are needed in international border areas to ensure that commercial motor vehicles, drivers, and carriers comply with United States safety standards.

"(6) The Department should rigorously avoid conflicts of interest in federally funded research.

"(7) Meaningful measures to improve safety must be implemented expeditiously to prevent increases in motor carrier crashes, injuries, and fatalities.

"(8) Proper use of Federal resources is essential to the Department's ability to improve its research, rulemaking, oversight, and enforcement activities related to commercial motor vehicles, operators, and carriers."

## PURPOSES

Pub. L. 106-159, §4, Dec. 9, 1999, 113 Stat. 1749, provided that: "The purposes of this Act [see Tables for classification] are—

"(1) to improve the administration of the Federal motor carrier safety program and to establish a Federal Motor Carrier Safety Administration in the Department of Transportation; and

"(2) to reduce the number and severity of large-truck involved crashes through more commercial motor vehicle and operator inspections and motor carrier compliance reviews, stronger enforcement measures against violators, expedited completion of rulemaking proceedings, scientifically sound research, and effective commercial driver's license testing, recordkeeping and sanctions."

## SAVINGS PROVISION

Pub. L. 106-159, title I, §106, Dec. 9, 1999, 113 Stat. 1756, provided that:

"(a) TRANSFER OF ASSETS AND PERSONNEL.—Except as otherwise provided in this Act [see Tables for classification] and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Federal Motor Carrier Safety Administration by this Act shall be transferred to the Administration for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Office of Motor Carrier Safety (including any predecessor entity) shall also be transferred to the Administration.

"(b) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

"(1) that have been issued, made, granted, or allowed to become effective by the Office, any officer or employee of the Office, or any other Government official, or by a court of competent jurisdiction, in the

performance of any function that is transferred by this Act or the amendments made by this Act; and

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

"(c) PROCEEDINGS.—

"(1) IN GENERAL.—The provisions of this Act shall not affect any proceedings or any application for any license pending before the Office at the time this Act takes effect [see Effective Date of 1999 Amendment note set out under section 104 of this title], insofar as those functions are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

"(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

"(3) ORDERLY TRANSFER.—The Secretary is authorized to provide for the orderly transfer of pending proceedings from the Office.

"(d) SUITS.—

"(1) IN GENERAL.—This Act shall not affect suits commenced before the date of the enactment of this Act [Dec. 9, 1999], except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

"(2) SUITS BY OR AGAINST OMCS.—Any suit by or against the Office begun before January 1, 2000, shall be continued, insofar as it involves a function retained and transferred under this Act, with the Administration (to the extent the suit involves functions transferred to the Administration under this Act) substituted for the Office.

"(3) REMANDED CASES.—If the court in a suit described in paragraph (1) remands a case to the Administration, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

"(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Office shall abate by reason of the enactment of this Act. No cause of action by or against the Office, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act.

"(f) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Administration may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.

"(g) REFERENCES.—Any reference to the Office in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Office or an officer or employee of the Office is deemed to refer to the Administration or a member or employee of the Administration, as appropriate."

**§ 114. Transportation Security Administration**

(a) **IN GENERAL.**—The Transportation Security Administration shall be an administration of the Department of Transportation.

(b) **UNDER SECRETARY.**—

(1) **APPOINTMENT.**—The head of the Administration shall be the Under Secretary of Transportation for Security. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(2) **QUALIFICATIONS.**—The Under Secretary must—

(A) be a citizen of the United States; and

(B) have experience in a field directly related to transportation or security.

(3) **TERM.**—The term of office of an individual appointed as the Under Secretary shall be 5 years.

(c) **LIMITATION ON OWNERSHIP OF STOCKS AND BONDS.**—The Under Secretary may not own stock in or bonds of a transportation or security enterprise or an enterprise that makes equipment that could be used for security purposes.

(d) **FUNCTIONS.**—The Under Secretary shall be responsible for security in all modes of transportation, including—

(1) carrying out chapter 449, relating to civil aviation security, and related research and development activities; and

(2) security responsibilities over other modes of transportation that are exercised by the Department of Transportation.

(e) **SCREENING OPERATIONS.**—The Under Secretary shall—

(1) be responsible for day-to-day Federal security screening operations for passenger air transportation and intrastate air transportation under sections 44901 and 44935;

(2) develop standards for the hiring and retention of security screening personnel;

(3) train and test security screening personnel; and

(4) be responsible for hiring and training personnel to provide security screening at all airports in the United States where screening is required under section 44901, in consultation with the Secretary of Transportation and the heads of other appropriate Federal agencies and departments.

(f) **ADDITIONAL DUTIES AND POWERS.**—In addition to carrying out the functions specified in subsections (d) and (e), the Under Secretary shall—

(1) receive, assess, and distribute intelligence information related to transportation security;

(2) assess threats to transportation;

(3) develop policies, strategies, and plans for dealing with threats to transportation security;

(4) make other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States Government;

(5) serve as the primary liaison for transportation security to the intelligence and law enforcement communities;

(6) on a day-to-day basis, manage and provide operational guidance to the field security

resources of the Administration, including Federal Security Managers as provided by section 44933;

(7) enforce security-related regulations and requirements;

(8) identify and undertake research and development activities necessary to enhance transportation security;

(9) inspect, maintain, and test security facilities, equipment, and systems;

(10) ensure the adequacy of security measures for the transportation of cargo;

(11) oversee the implementation, and ensure the adequacy, of security measures at airports and other transportation facilities;

(12) require background checks for airport security screening personnel, individuals with access to secure areas of airports, and other transportation security personnel;

(13) work in conjunction with the Administrator of the Federal Aviation Administration with respect to any actions or activities that may affect aviation safety or air carrier operations;

(14) work with the International Civil Aviation Organization and appropriate aeronautic authorities of foreign governments under section 44907 to address security concerns on passenger flights by foreign air carriers in foreign air transportation; and

(15) carry out such other duties, and exercise such other powers, relating to transportation security as the Under Secretary considers appropriate, to the extent authorized by law.

(g) **NATIONAL EMERGENCY RESPONSIBILITIES.**—

(1) **IN GENERAL.**—Subject to the direction and control of the Secretary, the Under Secretary, during a national emergency, shall have the following responsibilities:

(A) To coordinate domestic transportation, including aviation, rail, and other surface transportation, and maritime transportation (including port security).

(B) To coordinate and oversee the transportation-related responsibilities of other departments and agencies of the Federal Government other than the Department of Defense and the military departments.

(C) To coordinate and provide notice to other departments and agencies of the Federal Government, and appropriate agencies of State and local governments, including departments and agencies for transportation, law enforcement, and border control, about threats to transportation.

(D) To carry out such other duties, and exercise such other powers, relating to transportation during a national emergency as the Secretary shall prescribe.

(2) **AUTHORITY OF OTHER DEPARTMENTS AND AGENCIES.**—The authority of the Under Secretary under this subsection shall not supersede the authority of any other department or agency of the Federal Government under law with respect to transportation or transportation-related matters, whether or not during a national emergency.

(3) **CIRCUMSTANCES.**—The Secretary shall prescribe the circumstances constituting a national emergency for purposes of this subsection.

(h) **MANAGEMENT OF SECURITY INFORMATION.**—In consultation with the Transportation Security Oversight Board, the Under Secretary shall—

(1) enter into memoranda of understanding with Federal agencies or other entities to share or otherwise cross-check as necessary data on individuals identified on Federal agency databases who may pose a risk to transportation or national security;

(2) establish procedures for notifying the Administrator of the Federal Aviation Administration, appropriate State and local law enforcement officials, and airport or airline security officers of the identity of individuals known to pose, or suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety;

(3) in consultation with other appropriate Federal agencies and air carriers, establish policies and procedures requiring air carriers—

(A) to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation or national security; and

(B) if such an individual is identified, notify appropriate law enforcement agencies, prevent the individual from boarding an aircraft, or take other appropriate action with respect to that individual; and

(4) consider requiring passenger air carriers to share passenger lists with appropriate Federal agencies for the purpose of identifying individuals who may pose a threat to aviation safety or national security.

(i) **VIEW OF NTSB.**—In taking any action under this section that could affect safety, the Under Secretary shall give great weight to the timely views of the National Transportation Safety Board.

(j) **ACQUISITIONS.**—

(1) **IN GENERAL.**—The Under Secretary is authorized—

(A) to acquire (by purchase, lease, condemnation, or otherwise) such real property, or any interest therein, within and outside the continental United States, as the Under Secretary considers necessary;

(B) to acquire (by purchase, lease, condemnation, or otherwise) and to construct, repair, operate, and maintain such personal property (including office space and patents), or any interest therein, within and outside the continental United States, as the Under Secretary considers necessary;

(C) to lease to others such real and personal property and to provide by contract or otherwise for necessary facilities for the welfare of its employees and to acquire, maintain, and operate equipment for these facilities;

(D) to acquire services, including such personal services as the Secretary determines necessary, and to acquire (by purchase, lease, condemnation, or otherwise) and to construct, repair, operate, and maintain research and testing sites and facilities; and

(E) in cooperation with the Administrator of the Federal Aviation Administration, to utilize the research and development facilities of the Federal Aviation Administration.

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

(k) **TRANSFERS OF FUNDS.**—The Under Secretary is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions transferred, on or after the date of enactment of the Aviation and Transportation Security Act, by law to the Under Secretary.

(l) **REGULATIONS.**—

(1) **IN GENERAL.**—The Under Secretary is authorized to issue, rescind, and revise such regulations as are necessary to carry out the functions of the Administration.

(2) **EMERGENCY PROCEDURES.**—

(A) **IN GENERAL.**—Notwithstanding any other provision of law or executive order (including an executive order requiring a cost-benefit analysis), if the Under Secretary determines that a regulation or security directive must be issued immediately in order to protect transportation security, the Under Secretary shall issue the regulation or security directive without providing notice or an opportunity for comment and without prior approval of the Secretary.

(B) **REVIEW BY TRANSPORTATION SECURITY OVERSIGHT BOARD.**—Any regulation or security directive issued under this paragraph shall be subject to review by the Transportation Security Oversight Board established under section 115. Any regulation or security directive issued under this paragraph shall remain effective for a period not to exceed 90 days unless ratified or disapproved by the Board or rescinded by the Under Secretary.

(3) **FACTORS TO CONSIDER.**—In determining whether to issue, rescind, or revise a regulation under this section, the Under Secretary shall consider, as a factor in the final determination, whether the costs of the regulation are excessive in relation to the enhancement of security the regulation will provide. The Under Secretary may waive requirements for an analysis that estimates the number of lives that will be saved by the regulation and the monetary value of such lives if the Under Secretary determines that it is not feasible to make such an estimate.

(4) **AIRWORTHINESS OBJECTIONS BY FAA.**—

(A) **IN GENERAL.**—The Under Secretary shall not take an aviation security action under this title if the Administrator of the Federal Aviation Administration notifies the Under Secretary that the action could adversely affect the airworthiness of an aircraft.

(B) **REVIEW BY SECRETARY.**—Notwithstanding subparagraph (A), the Under Secretary may take such an action, after receiving a notification concerning the action from the Administrator under subparagraph (A), if the Secretary of Transportation subsequently approves the action.

(m) **PERSONNEL AND SERVICES; COOPERATION BY UNDER SECRETARY.**—

(1) AUTHORITY OF UNDER SECRETARY.—In carrying out the functions of the Administration, the Under Secretary shall have the same authority as is provided to the Administrator of the Federal Aviation Administration under subsections (l) and (m) of section 106.

(2) AUTHORITY OF AGENCY HEADS.—The head of a Federal agency shall have the same authority to provide services, supplies, equipment, personnel, and facilities to the Under Secretary as the head has to provide services, supplies, equipment, personnel, and facilities to the Administrator of the Federal Aviation Administration under section 106(m).

(n) PERSONNEL MANAGEMENT SYSTEM.—The personnel management system established by the Administrator of the Federal Aviation Administration under section 40122 shall apply to employees of the Transportation Security Administration, or, subject to the requirements of such section, the Under Secretary may make such modifications to the personnel management system with respect to such employees as the Under Secretary considers appropriate, such as adopting aspects of other personnel systems of the Department of Transportation.

(o) AUTHORITY OF INSPECTOR GENERAL.—The Transportation Security Administration shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.) and other laws relating to the authority of the Inspector General of the Department of Transportation.

(p) LAW ENFORCEMENT POWERS.—

(1) IN GENERAL.—The Under Secretary may designate an employee of the Transportation Security Administration or other Federal agency to serve as a law enforcement officer.

(2) POWERS.—While engaged in official duties of the Administration as required to fulfill the responsibilities under this section, a law enforcement officer designated under paragraph (1) may—

(A) carry a firearm;

(B) make an arrest without a warrant for any offense against the United States committed in the presence of the officer, or for any felony cognizable under the laws of the United States if the officer has probable cause to believe that the person to be arrested has committed or is committing the felony; and

(C) seek and execute warrants for arrest or seizure of evidence issued under the authority of the United States upon probable cause that a violation has been committed.

(3) GUIDELINES ON EXERCISE OF AUTHORITY.—The authority provided by this subsection shall be exercised in accordance with guidelines prescribed by the Under Secretary, in consultation with the Attorney General of the United States, and shall include adherence to the Attorney General's policy on use of deadly force.

(4) REVOCATION OR SUSPENSION OF AUTHORITY.—The powers authorized by this subsection may be rescinded or suspended should the Attorney General determine that the Under Secretary has not complied with the guidelines prescribed in paragraph (3) and conveys the determination in writing to the Secretary of Transportation and the Under Secretary.

(q) AUTHORITY TO EXEMPT.—The Under Secretary may grant an exemption from a regulation prescribed in carrying out this section if the Under Secretary determines that the exemption is in the public interest.

(r) NONDISCLOSURE OF SECURITY ACTIVITIES.—

(1) IN GENERAL.—Notwithstanding section 552 of title 5, the Under Secretary shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107-71) or under chapter 449 of this title if the Under Secretary decides that disclosing the information would—

(A) be an unwarranted invasion of personal privacy;

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

(C) be detrimental to the security of transportation.

(2) AVAILABILITY OF INFORMATION TO CONGRESS.—Paragraph (1) does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) LIMITATION ON TRANSFERABILITY OF DUTIES.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this subsection to another department, agency, or instrumentality of the United States.

(4) LIMITATIONS.—Nothing in this subsection, or any other provision of law, shall be construed to authorize the designation of information as sensitive security information (as defined in section 1520.5 of title 49, Code of Federal Regulations)—

(A) to conceal a violation of law, inefficiency, or administrative error;

(B) to prevent embarrassment to a person, organization, or agency;

(C) to restrain competition; or

(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.

(s) TRANSPORTATION SECURITY STRATEGIC PLANNING.—

(1) IN GENERAL.—The Secretary of Homeland Security shall develop, prepare, implement, and update, as needed—

(A) a National Strategy for Transportation Security; and

(B) transportation modal security plans addressing security risks, including threats, vulnerabilities, and consequences, for aviation, railroad, ferry, highway, maritime, pipeline, public transportation, over-the-road bus, and other transportation infrastructure assets.

(2) ROLE OF SECRETARY OF TRANSPORTATION.—The Secretary of Homeland Security shall work jointly with the Secretary of Transportation in developing, revising, and updating the documents required by paragraph (1).

(3) CONTENTS OF NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—The National

Strategy for Transportation Security shall include the following:

(A) An identification and evaluation of the transportation assets in the United States that, in the interests of national security and commerce, must be protected from attack or disruption by terrorist or other hostile forces, including modal security plans for aviation, bridge and tunnel, commuter rail and ferry, highway, maritime, pipeline, rail, mass transit, over-the-road bus, and other public transportation infrastructure assets that could be at risk of such an attack or disruption.

(B) The development of risk-based priorities, based on risk assessments conducted or received by the Secretary of Homeland Security (including assessments conducted under the Implementing Recommendations of the 9/11 Commission Act of 2007<sup>1</sup> across all transportation modes and realistic deadlines for addressing security needs associated with those assets referred to in subparagraph (A).

(C) The most appropriate, practical, and cost-effective means of defending those assets against threats to their security.

(D) A forward-looking strategic plan that sets forth the agreed upon roles and missions of Federal, State, regional, local, and tribal authorities and establishes mechanisms for encouraging cooperation and participation by private sector entities, including non-profit employee labor organizations, in the implementation of such plan.

(E) A comprehensive delineation of prevention, response, and recovery responsibilities and issues regarding threatened and executed acts of terrorism within the United States and threatened and executed acts of terrorism outside the United States to the extent such acts affect United States transportation systems.

(F) A prioritization of research and development objectives that support transportation security needs, giving a higher priority to research and development directed toward protecting vital transportation assets. Transportation security research and development projects shall be based, to the extent practicable, on such prioritization. Nothing in the preceding sentence shall be construed to require the termination of any research or development project initiated by the Secretary of Homeland Security or the Secretary of Transportation before the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(G) A 3- and 10-year budget for Federal transportation security programs that will achieve the priorities of the National Strategy for Transportation Security.

(H) Methods for linking the individual transportation modal security plans and the programs contained therein, and a plan for addressing the security needs of intermodal transportation.

(I) Transportation modal security plans described in paragraph (1)(B), including operational recovery plans to expedite, to the maximum extent practicable, the return to operation of an adversely affected transportation system following a major terrorist attack on that system or other incident. These plans shall be coordinated with the resumption of trade protocols required under section 202 of the SAFE Port Act (6 U.S.C. 942) and the National Maritime Transportation Security Plan required under section 70103(a) of title 46.

(4) SUBMISSIONS OF PLANS TO CONGRESS.—

(A) INITIAL STRATEGY.—The Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans, developed under this subsection to the appropriate congressional committees not later than April 1, 2005.

(B) SUBSEQUENT VERSIONS.—After December 31, 2005, the Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans and any revisions to the National Strategy for Transportation Security and the transportation modal security plans, to appropriate congressional committees not less frequently than April 1 of each even-numbered year.

(C) PERIODIC PROGRESS REPORT.—

(i) REQUIREMENT FOR REPORT.—Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to the appropriate congressional committees an assessment of the progress made on implementing the National Strategy for Transportation Security, including the transportation modal security plans.

(ii) CONTENT.—Each progress report submitted under this subparagraph shall include, at a minimum, the following:

(I) Recommendations for improving and implementing the National Strategy for Transportation Security and the transportation modal and intermodal security plans that the Secretary of Homeland Security, in consultation with the Secretary of Transportation, considers appropriate.

(II) An accounting of all grants for transportation security, including grants and contracts for research and development, awarded by the Secretary of Homeland Security in the most recent fiscal year and a description of how such grants accomplished the goals of the National Strategy for Transportation Security.

(III) An accounting of all—

(aa) funds requested in the President's budget submitted pursuant to section 1105 of title 31 for the most recent fiscal year for transportation security, by mode;

(bb) personnel working on transportation security by mode, including the number of contractors; and

<sup>1</sup>So in original. Probably should be followed by a closing parenthesis.

(cc) information on the turnover in the previous year among senior staff of the Department of Homeland Security, including component agencies, working on transportation security issues. Such information shall include the number of employees who have permanently left the office, agency, or area in which they worked, and the amount of time that they worked for the Department.

(iii) WRITTEN EXPLANATION OF TRANSPORTATION SECURITY ACTIVITIES NOT DELINEATED IN THE NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—At the end of each fiscal year, the Secretary of Homeland Security shall submit to the appropriate congressional committees a written explanation of any Federal transportation security activity that is inconsistent with the National Strategy for Transportation Security, including the amount of funds to be expended for the activity and the number of personnel involved.

(D) CLASSIFIED MATERIAL.—Any part of the National Strategy for Transportation Security or the transportation modal security plans that involve information that is properly classified under criteria established by Executive order shall be submitted to the appropriate congressional committees separately in a classified format.

(E) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate congressional committees” means the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Homeland Security and Governmental Affairs, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(5) PRIORITY STATUS.—

(A) IN GENERAL.—The National Strategy for Transportation Security shall be the governing document for Federal transportation security efforts.

(B) OTHER PLANS AND REPORTS.—The National Strategy for Transportation Security shall include, as an integral part or as an appendix—

(i) the current National Maritime Transportation Security Plan under section 70103 of title 46;

(ii) the report required by section 44938 of this title;

(iii) transportation modal security plans required under this section;

(iv) the transportation sector specific plan required under Homeland Security Presidential Directive-7; and

(v) any other transportation security plan or report that the Secretary of Homeland Security determines appropriate for inclusion.

(6) COORDINATION.—In carrying out the responsibilities under this section, the Secretary

of Homeland Security, in coordination with the Secretary of Transportation, shall consult, as appropriate, with Federal, State, and local agencies, tribal governments, private sector entities (including nonprofit employee labor organizations), institutions of higher learning, and other entities.

(7) PLAN DISTRIBUTION.—The Secretary of Homeland Security shall make available and appropriately publicize an unclassified version of the National Strategy for Transportation Security, including its component transportation modal security plans, to Federal, State, regional, local and tribal authorities, transportation system owners or operators, private sector stakeholders, including nonprofit employee labor organizations representing transportation employees, institutions of higher learning, and other appropriate entities.

(u)<sup>2</sup> TRANSPORTATION SECURITY INFORMATION SHARING PLAN.—

(1) DEFINITIONS.—In this subsection:

(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” has the meaning given that term in subsection (t).<sup>3</sup>

(B) PLAN.—The term “Plan” means the Transportation Security Information Sharing Plan established under paragraph (2).

(C) PUBLIC AND PRIVATE STAKEHOLDERS.—The term “public and private stakeholders” means Federal, State, and local agencies, tribal governments, and appropriate private entities, including nonprofit employee labor organizations representing transportation employees.

(D) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

(E) TRANSPORTATION SECURITY INFORMATION.—The term “transportation security information” means information relating to the risks to transportation modes, including aviation, public transportation, railroad, ferry, highway, maritime, pipeline, and over-the-road bus transportation, and may include specific and general intelligence products, as appropriate.

(2) ESTABLISHMENT OF PLAN.—The Secretary of Homeland Security, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Secretary of Transportation, and public and private stakeholders, shall establish a Transportation Security Information Sharing Plan. In establishing the Plan, the Secretary shall gather input on the development of the Plan from private and public stakeholders and the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

(3) PURPOSE OF PLAN.—The Plan shall promote sharing of transportation security information between the Department of Homeland Security and public and private stakeholders.

<sup>2</sup> So in original. There is no subsec. (t).

<sup>3</sup> So in original. Probably should be “subsection (s).”

(4) CONTENT OF PLAN.—The Plan shall include—

(A) a description of how intelligence analysts within the Department of Homeland Security will coordinate their activities within the Department and with other Federal, State, and local agencies, and tribal governments, including coordination with existing modal information sharing centers and the center described in section 1410 of the Implementing Recommendations of the 9/11 Commission Act of 2007;

(B) the establishment of a point of contact, which may be a single point of contact within the Department of Homeland Security, for each mode of transportation for the sharing of transportation security information with public and private stakeholders, including an explanation and justification to the appropriate congressional committees if the point of contact established pursuant to this subparagraph differs from the agency within the Department that has the primary authority, or has been delegated such authority by the Secretary, to regulate the security of that transportation mode;

(C) a reasonable deadline by which the Plan will be implemented; and

(D) a description of resource needs for fulfilling the Plan.

(5) COORDINATION WITH INFORMATION SHARING.—The Plan shall be—

(A) implemented in coordination, as appropriate, with the program manager for the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485); and

(B) consistent with the establishment of the information sharing environment and any policies, guidelines, procedures, instructions, or standards established by the President or the program manager for the implementation and management of the information sharing environment.

(6) REPORTS TO CONGRESS.—

(A) IN GENERAL.—Not later than 150 days after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit to the appropriate congressional committees, a report containing the Plan.

(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall submit to the appropriate congressional committees a report on updates to and the implementation of the Plan.

(7) SURVEY AND REPORT.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a biennial survey of the satisfaction of recipients of transportation intelligence reports disseminated under the Plan.

(B) INFORMATION SOUGHT.—The survey conducted under subparagraph (A) shall seek information about the quality, speed, regularity, and classification of the transportation security information products disseminated by the Department of Homeland Security to public and private stakeholders.

(C) REPORT.—Not later than 1 year after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and every even numbered year thereafter, the Comptroller General shall submit to the appropriate congressional committees, a report on the results of the survey conducted under subparagraph (A). The Comptroller General shall also provide a copy of the report to the Secretary.

(8) SECURITY CLEARANCES.—The Secretary shall, to the greatest extent practicable, take steps to expedite the security clearances needed for designated public and private stakeholders to receive and obtain access to classified information distributed under this section, as appropriate.

(9) CLASSIFICATION OF MATERIAL.—The Secretary, to the greatest extent practicable, shall provide designated public and private stakeholders with transportation security information in an unclassified format.

(v) ENFORCEMENT OF REGULATIONS AND ORDERS OF THE SECRETARY OF HOMELAND SECURITY.—

(1) APPLICATION OF SUBSECTION.—

(A) IN GENERAL.—This subsection applies to the enforcement of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of chapter 701 of title 46 and under a provision of this title other than a provision of chapter 449 (in this subsection referred to as an “applicable provision of this title”).

(B) VIOLATIONS OF CHAPTER 449.—The penalties for violations of regulations prescribed and orders issued by the Secretary of Homeland Security under chapter 449 of this title are provided under chapter 463 of this title.

(C) NONAPPLICATION TO CERTAIN VIOLATIONS.—

(i) Paragraphs (2) through (5) do not apply to violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title—

(I) involving the transportation of personnel or shipments of materials by contractors where the Department of Defense has assumed control and responsibility;

(II) by a member of the armed forces of the United States when performing official duties; or

(III) by a civilian employee of the Department of Defense when performing official duties.

(ii) Violations described in subclause (I), (II), or (III) of clause (i) shall be subject to penalties as determined by the Secretary of Defense or the Secretary’s designee.

(2) CIVIL PENALTY.—

(A) IN GENERAL.—A person is liable to the United States Government for a civil penalty of not more than \$10,000 for a violation of a regulation prescribed, or order issued, by the Secretary of Homeland Security under an applicable provision of this title.

(B) REPEAT VIOLATIONS.—A separate violation occurs under this paragraph for each day the violation continues.

## (3) ADMINISTRATIVE IMPOSITION OF CIVIL PENALTIES.—

(A) IN GENERAL.—The Secretary of Homeland Security may impose a civil penalty for a violation of a regulation prescribed, or order issued, under an applicable provision of this title. The Secretary shall give written notice of the finding of a violation and the penalty.

(B) SCOPE OF CIVIL ACTION.—In a civil action to collect a civil penalty imposed by the Secretary under this subsection, a court may not re-examine issues of liability or the amount of the penalty.

(C) JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction of civil actions to collect a civil penalty imposed by the Secretary under this subsection if—

(i) the amount in controversy is more than—

(I) \$400,000, if the violation was committed by a person other than an individual or small business concern; or

(II) \$50,000 if the violation was committed by an individual or small business concern;

(ii) the action is in rem or another action in rem based on the same violation has been brought; or

(iii) another action has been brought for an injunction based on the same violation.

(D) MAXIMUM PENALTY.—The maximum civil penalty the Secretary administratively may impose under this paragraph is—

(i) \$400,000, if the violation was committed by a person other than an individual or small business concern; or

(ii) \$50,000, if the violation was committed by an individual or small business concern.

(E) NOTICE AND OPPORTUNITY TO REQUEST HEARING.—Before imposing a penalty under this section the Secretary shall provide to the person against whom the penalty is to be imposed—

(i) written notice of the proposed penalty; and

(ii) the opportunity to request a hearing on the proposed penalty, if the Secretary receives the request not later than 30 days after the date on which the person receives notice.

## (4) COMPROMISE AND SETOFF.—

(A) The Secretary may compromise the amount of a civil penalty imposed under this subsection.

(B) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(5) INVESTIGATIONS AND PROCEEDINGS.—Chapter 461 shall apply to investigations and proceedings brought under this subsection to the same extent that it applies to investigations and proceedings brought with respect to aviation security duties designated to be carried out by the Secretary.

## (6) DEFINITIONS.—In this subsection:

(A) PERSON.—The term “person” does not include—

- (i) the United States Postal Service; or
- (ii) the Department of Defense.

(B) SMALL BUSINESS CONCERN.—The term “small business concern” has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

## (7) ENFORCEMENT TRANSPARENCY.—

(A) IN GENERAL.—Not later than December 31, 2008, and annually thereafter, the Secretary shall—

(i) provide an annual summary to the public of all enforcement actions taken by the Secretary under this subsection; and

(ii) include in each such summary the docket number of each enforcement action, the type of alleged violation, the penalty or penalties proposed, and the final assessment amount of each penalty.

(B) ELECTRONIC AVAILABILITY.—Each summary under this paragraph shall be made available to the public by electronic means.

(C) RELATIONSHIP TO THE FREEDOM OF INFORMATION ACT AND THE PRIVACY ACT.—Nothing in this subsection shall be construed to require disclosure of information or records that are exempt from disclosure under sections 552 or 552a of title 5.

(D) ENFORCEMENT GUIDANCE.—Not later than 180 days after the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary shall provide a report to the public describing the enforcement process established under this subsection.

(w) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for—

## (1) railroad security—

- (A) \$488,000,000 for fiscal year 2008;
- (B) \$483,000,000 for fiscal year 2009;
- (C) \$508,000,000 for fiscal year 2010; and
- (D) \$508,000,000 for fiscal year 2011;

## (2) over-the-road bus and trucking security—

- (A) \$14,000,000 for fiscal year 2008;
- (B) \$27,000,000 for fiscal year 2009;
- (C) \$27,000,000 for fiscal year 2010; and
- (D) \$27,000,000 for fiscal year 2011; and

## (3) hazardous material and pipeline security—

- (A) \$12,000,000 for fiscal year 2008;
- (B) \$12,000,000 for fiscal year 2009; and
- (C) \$12,000,000 for fiscal year 2010.

(Added Pub. L. 107–71, title I, §101(a), Nov. 19, 2001, 115 Stat. 597; amended Pub. L. 107–296, title XVI, §1601(b), title XVII, §1707, Nov. 25, 2002, 116 Stat. 2312, 2318; Pub. L. 108–7, div. I, title III, §351(d), Feb. 20, 2003, 117 Stat. 420; Pub. L. 108–458, title IV, §4001(a), Dec. 17, 2004, 118 Stat. 3710; Pub. L. 110–53, title XII, §§1202, 1203(a), title XIII, §1302(a), title XV, §1503(a), Aug. 3, 2007, 121 Stat. 381, 383, 390, 425; Pub. L. 110–161, div. E, title V, §568(a), Dec. 26, 2007, 121 Stat. 2092; Pub. L. 111–83, title V, §561(c)(1), Oct. 28, 2009, 123 Stat. 2182.)

## REFERENCES IN TEXT

The date of enactment of the Aviation and Transportation Security Act, referred to in subsec. (k), is the

date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

The Inspector General Act of 1978, referred to in subsec. (o), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Aviation and Transportation Security Act, referred to in subsec. (r)(1), is Pub. L. 107–71, Nov. 19, 2001, 115 Stat. 597. For complete classification of this Act to the Code, see Short Title of 2001 Amendment note set out under section 40101 of this title and Tables.

The Implementing Recommendations of the 9/11 Commission Act of 2007, referred to in subsec. (s)(3)(B), is Pub. L. 110–53, Aug. 3, 2007, 121 Stat. 266. Section 1410 of the Act is classified to section 1139 of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title of 2007 Amendment note set out under section 101 of Title 6 and Tables.

The date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007 and the date of enactment of this subsection, referred to in subsecs. (s)(3)(F), (u)(6), (7)(C), and (v)(7)(D), is the date of enactment of Pub. L. 110–53, which was approved Aug. 3, 2007.

#### AMENDMENTS

2009—Subsec. (r)(4). Pub. L. 111–83 added par. (4).

2007—Subsecs. (o) to (s). Pub. L. 110–161 redesignated subsecs. (p) to (s) as (o) to (r), respectively, and struck out former subsec. (o). Text of former subsec. (o) read as follows: “The acquisition management system established by the Administrator of the Federal Aviation Administration under section 40110 shall apply to acquisitions of equipment, supplies, and materials by the Transportation Security Administration, or, subject to the requirements of such section, the Under Secretary may make such modifications to the acquisition management system with respect to such acquisitions of equipment, supplies, and materials as the Under Secretary considers appropriate, such as adopting aspects of other acquisition management systems of the Department of Transportation.”

Subsec. (t). Pub. L. 110–161 redesignated subsec. (t) as (s).

Subsec. (t)(1)(B). Pub. L. 110–53, § 1202(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “transportation modal security plans.”

Subsec. (t)(3)(B). Pub. L. 110–53, § 1202(b)(1), inserted “, based on risk assessments conducted or received by the Secretary of Homeland Security (including assessments conducted under the Implementing Recommendations of the 9/11 Commission Act of 2007” after “risk-based priorities”.

Subsec. (t)(3)(D). Pub. L. 110–53, § 1202(b)(2), substituted “local, and tribal” for “and local” and “cooperation and participation by private sector entities, including nonprofit employee labor organizations,” for “private sector cooperation and participation”.

Subsec. (t)(3)(E). Pub. L. 110–53, § 1202(b)(3), substituted “prevention, response, and recovery” for “response and recovery” and inserted “and threatened and executed acts of terrorism outside the United States to the extent such acts affect United States transportation systems” before period at end.

Subsec. (t)(3)(F). Pub. L. 110–53, § 1202(b)(4), inserted at end “Transportation security research and development projects shall be based, to the extent practicable, on such prioritization. Nothing in the preceding sentence shall be construed to require the termination of any research or development project initiated by the Secretary of Homeland Security or the Secretary of Transportation before the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.”

Subsec. (t)(3)(G) to (I). Pub. L. 110–53, § 1202(b)(5), added subpars. (G) to (I).

Subsec. (t)(4)(C)(i). Pub. L. 110–53, § 1202(c)(1)(A), inserted “, including the transportation modal security plans” before period at end.

Subsec. (t)(4)(C)(ii), (iii). Pub. L. 110–53, § 1202(c)(1)(B), added cls. (ii) and (iii) and struck out former cl. (ii).

Text of former cl. (ii) read as follows: “Each progress report under this subparagraph shall include, at a minimum, recommendations for improving and implementing the National Strategy for Transportation Security and the transportation modal security plans that the Secretary, in consultation with the Secretary of Transportation, considers appropriate.”

Subsec. (t)(4)(E). Pub. L. 110–53, § 1202(c)(2), added subpar. (E) and struck out former subpar. (E). Text of former subpar. (E) read as follows: “In this subsection, the term ‘appropriate congressional committees’ means the Committee on Transportation and Infrastructure and the Select Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate.”

Subsec. (t)(5)(B)(iv), (v). Pub. L. 110–53, § 1202(d), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (t)(6), (7). Pub. L. 110–53, § 1202(e), added pars. (6) and (7).

Subsec. (u). Pub. L. 110–53, § 1203(a), added subsec. (u).

Subsec. (v). Pub. L. 110–53, § 1302(a), added subsec. (v).

Subsec. (w). Pub. L. 110–53, § 1503(a), added subsec. (w).

2004—Subsec. (t). Pub. L. 108–458 added subsec. (t).

2003—Subsec. (q)(1). Pub. L. 108–7 inserted “or other Federal agency” after “Transportation Security Administration”.

2002—Subsec. (l)(2)(B). Pub. L. 107–296, § 1707, inserted “for a period not to exceed 90 days” after “effective” and “ratified or” before “disapproved”.

Subsec. (s). Pub. L. 107–296, § 1601(b), added subsec. (s).

#### EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–161, div. E, title V, § 568(b), Dec. 26, 2007, 121 Stat. 2092, provided that: “The amendment made by subsection (a) [amending this section] shall take effect 180 days after the date of enactment of this Act [Dec. 26, 2007].”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–458, title IV, § 4082, Dec. 17, 2004, 118 Stat. 3732, provided that: “This title [enacting section 44925 of this title, amending this section, sections 44903, 44904, 44909, 44917, 44923, 46301 to 46303, and 48301 of this title, and sections 70102 and 70103 of Title 46, Shipping, and enacting provisions set out as notes under sections 44703, 44901, 44913, 44917, 44923, 44925, and 44935 of this title, section 2751 of Title 22, Foreign Relations and Intercourse, and section 70101 of Title 46] shall take effect on the date of enactment of this Act [Dec. 17, 2004].”

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

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

## REGISTERED TRAVELER PROGRAMS AND BIOMETRICALLY-SECURE CARDS

Pub. L. 110-161, div. E, title V, §571, Dec. 26, 2007, 121 Stat. 2093, provided that: “Effective no later than ninety days after the date of enactment of this Act [Dec. 26, 2007], the Transportation Security Administration shall permit approved members of Registered Traveler programs to satisfy fully the required identity verification procedures at security screening checkpoints by presenting a biometrically-secure Registered Traveler card in lieu of the government-issued photo identification document required of non-participants: *Provided*, That if their identity is not confirmed biometrically, the standard identity and screening procedures will apply: *Provided further*, That if the Assistant Secretary (Transportation Security Administration) determines this is a threat to civil aviation, then the Assistant Secretary (Transportation Security Administration) shall notify the Committees on Appropriations of the Senate and House of Representatives five days in advance of such determination and require Registered Travelers to present government-issued photo identification documents in conjunction with a biometrically-secure Registered Traveler card.”

## CONGRESSIONAL OVERSIGHT OF SECURITY ASSURANCE FOR PUBLIC AND PRIVATE STAKEHOLDERS

Pub. L. 110-53, title XII, §1203(b), Aug. 3, 2007, 121 Stat. 385, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary [of Homeland Security] shall provide a semiannual report to the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

“(A) the number of public and private stakeholders who were provided with each report;

“(B) a description of the measures the Secretary has taken, under section 114(u)(7) of title 49, United States Code, as added by this section, or otherwise, to ensure proper treatment and security for any classified information to be shared with the public and private stakeholders under the Plan; and

“(C) an explanation of the reason for the denial of transportation security information to any stakeholder who had previously received such information.

“(2) NO REPORT REQUIRED IF NO CHANGES IN STAKEHOLDERS.—The Secretary is not required to provide a semiannual report under paragraph (1) if no stakeholders have been added to or removed from the group of persons with whom transportation security information is shared under the plan since the end of the period covered by the last preceding semiannual report.”

## SPECIALIZED TRAINING

Pub. L. 110-53, title XVI, §1611, Aug. 3, 2007, 121 Stat. 485, provided that: “The Administrator of the Transportation Security Administration shall provide advanced training to transportation security officers for the development of specialized security skills, including behavior observation and analysis, explosives detection, and document examination, in order to enhance the effectiveness of layered transportation security measures.”

## INAPPLICABILITY OF PERSONNEL LIMITATIONS AFTER FISCAL YEAR 2007

Pub. L. 110-53, title XVI, §1612, Aug. 3, 2007, 121 Stat. 485, provided that:

“(a) IN GENERAL.—Notwithstanding any provision of law, any statutory limitation on the number of employees in the Transportation Security Administration, before or after its transfer to the Department of Homeland Security from the Department of Transportation, does not apply after fiscal year 2007.

“(b) AVIATION SECURITY.—Notwithstanding any provision of law imposing a limitation on the recruiting or

hiring of personnel into the Transportation Security Administration to a maximum number of permanent positions, the Secretary of Homeland Security shall recruit and hire such personnel into the Administration as may be necessary—

“(1) to provide appropriate levels of aviation security; and

“(2) to accomplish that goal in such a manner that the average aviation security-related delay experienced by airline passengers is reduced to a level of less than 10 minutes.”

## LEASE OF PROPERTY TO TRANSPORTATION SECURITY ADMINISTRATION EMPLOYEES

Pub. L. 109-90, title V, §514, Oct. 18, 2005, 119 Stat. 2084, provided that: “Notwithstanding section 3302 of title 31, United States Code, for fiscal year 2006 and thereafter, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108-334, title V, §516, Oct. 18, 2004, 118 Stat. 1318.

## ACQUISITION MANAGEMENT SYSTEM OF THE TRANSPORTATION SECURITY ADMINISTRATION

Pub. L. 109-90, title V, §515, Oct. 18, 2005, 119 Stat. 2084, provided that: “For fiscal year 2006 and thereafter, the acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108-334, title V, §517, Oct. 18, 2004, 118 Stat. 1318.

## REGISTERED TRAVELER PROGRAM FEE

Pub. L. 109-90, title V, §540, Oct. 18, 2005, 119 Stat. 2088, provided that: “For fiscal year 2006 and thereafter, notwithstanding section 553 of title 5, United States Code, the Secretary of Homeland Security shall impose a fee for any registered traveler program undertaken by the Department of Homeland Security by notice in the Federal Register, and may modify the fee from time to time by notice in the Federal Register: *Provided*, That such fees shall not exceed the aggregate costs associated with the program and shall be credited to the Transportation Security Administration registered traveler fee account, to be available until expended.”

## ENHANCED SECURITY MEASURES

Pub. L. 107-71, title I, §109, Nov. 19, 2001, 115 Stat. 613, as amended by Pub. L. 107-296, title XIV, §1403(b), Nov. 25, 2002, 116 Stat. 2306, provided that:

“(a) IN GENERAL.—The Under Secretary of Transportation for Security may take the following actions:

“(1) Require effective 911 emergency call capability for telephones serving passenger aircraft and passenger trains.

“(2) Establish a uniform system of identification for all State and local law enforcement personnel for use in obtaining permission to carry weapons in aircraft cabins and in obtaining access to a secured area of an airport, if otherwise authorized to carry such weapons.

“(3) Establish requirements to implement trusted passenger programs and use available technologies to expedite the security screening of passengers who

participate in such programs, thereby allowing security screening personnel to focus on those passengers who should be subject to more extensive screening.

“(4) In consultation with the Commissioner of the Food and Drug Administration, develop alternative security procedures under which a medical product to be transported on a flight of an air carrier would not be subject to an inspection that would irreversibly damage the product.

“(5) Provide for the use of technologies, including wireless and wire line data technologies, to enable the private and secure communication of threats to aid in the screening of passengers and other individuals on airport property who are identified on any State or Federal security-related data base for the purpose of having an integrated response coordination of various authorized airport security forces.

“(6) In consultation with the Administrator of the Federal Aviation Administration, consider whether to require all pilot licenses to incorporate a photograph of the license holder and appropriate biometric imprints.

“(7) Provide for the use of voice stress analysis, biometric, or other technologies to prevent a person who might pose a danger to air safety or security from boarding the aircraft of an air carrier or foreign air carrier in air transportation or intrastate air transportation.

“(8) Provide for the use of technology that will permit enhanced instant communications and information between airborne passenger aircraft and appropriate individuals or facilities on the ground.

“(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots.

“(b) REPORT.—Not later than 6 months after the date of enactment of this Act [Nov. 19, 2001], and annually thereafter until the Under Secretary has implemented or decided not to take each of the actions specified in subsection (a), the Under Secretary shall transmit to Congress a report on the progress of the Under Secretary in evaluating and taking such actions, including any legislative recommendations that the Under Secretary may have for enhancing transportation security.”

[For definitions of terms used in section 109 of Pub. L. 107-71, set out above, see section 133 of Pub. L. 107-71, set out as a note under section 40102 of this title.]

### § 115. Transportation Security Oversight Board

(a) IN GENERAL.—There is established in the Department of Homeland Security a board to be known as the “Transportation Security Oversight Board”.

(b) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Board shall be composed of 7 members as follows:

(A) The Secretary of Homeland Security, or the Secretary’s designee.

(B) The Secretary of Transportation, or the Secretary’s designee.

(C) The Attorney General, or the Attorney General’s designee.

(D) The Secretary of Defense, or the Secretary’s designee.

(E) The Secretary of the Treasury, or the Secretary’s designee.

(F) The Director of National Intelligence, or the Director’s designee.

(G) One member appointed by the President to represent the National Security Council.

(2) CHAIRPERSON.—The Chairperson of the Board shall be the Secretary of Homeland Security.

(c) DUTIES.—The Board shall—

(1) review and ratify or disapprove any regulation or security directive issued by the Under Secretary of Transportation for security<sup>1</sup> under section 114(l)(2) within 30 days after the date of issuance of such regulation or directive;

(2) facilitate the coordination of intelligence, security, and law enforcement activities affecting transportation;

(3) facilitate the sharing of intelligence, security, and law enforcement information affecting transportation among Federal agencies and with carriers and other transportation providers as appropriate;

(4) explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security;

(5) review plans for transportation security;

(6) make recommendations to the Under Secretary regarding matters reviewed under paragraph (5).

(d) QUARTERLY MEETINGS.—The Board shall meet at least quarterly.

(e) CONSIDERATION OF SECURITY INFORMATION.—A majority of the Board may vote to close a meeting of the Board to the public, except that meetings shall be closed to the public whenever classified, sensitive security information, or information protected in accordance with section 40119(b), will be discussed.

(Added Pub. L. 107-71, title I, §102(a), Nov. 19, 2001, 115 Stat. 604; amended Pub. L. 107-296, title IV, §426(a), Nov. 25, 2002, 116 Stat. 2186; Pub. L. 111-259, title IV, §411, Oct. 7, 2010, 124 Stat. 2725.)

#### AMENDMENTS

2010—Subsec. (b)(1)(F). Pub. L. 111-259 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “The Director of the Central Intelligence Agency, or the Director’s designee.”

2002—Subsec. (a). Pub. L. 107-296, §426(a)(1), substituted “Department of Homeland Security” for “Department of Transportation”.

Subsec. (b)(1). Pub. L. 107-296, §426(a)(2), added subpar. (A), redesignated former subpars. (A) to (F) as (B) to (G), respectively, and struck out former subpar. (G) which read as follows: “One member appointed by the President to represent the Office of Homeland Security.”

Subsec. (b)(2). Pub. L. 107-296, §426(a)(3), substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

<sup>1</sup> So in original. Probably should be capitalized.

CHAPTER 3—GENERAL DUTIES AND POWERS

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

- Sec.
- 301. Leadership, consultation, and cooperation.
- 302. Policy standards for transportation.
- 303. Policy on lands, wildlife and waterfowl refuges, and historic sites.
- 303a. Development of water transportation.
- 304. Application of categorical exclusions for multimodal projects.
- 305. Transportation investment standards and criteria.
- 306. Prohibited discrimination.
- [307. Repealed.]
- 308. Reports.
- 309. High-speed ground transportation.

SUBCHAPTER II—ADMINISTRATIVE

- 321. Definitions.
- 322. General powers.
- 323. Personnel.
- 324. Members of the armed forces.
- 325. Advisory committees.
- 326. Gifts.
- 327. Administrative working capital fund.
- 328. Transportation Systems Center working capital fund.
- 329. Transportation information.
- 330. Research contracts.
- 331. Service, supplies, and facilities at remote places.
- 332. Minority Resource Center.
- 333. Responsibility for rail transportation unification and coordination projects.
- [334, 335. Repealed.]
- 336. Civil penalty procedures.
- 337. Budget request for the Director of Intelligence and Security.

SUBCHAPTER III—MISCELLANEOUS

- 351. Judicial review of actions in carrying out certain transferred duties and powers.
- 352. Authority to carry out certain transferred duties and powers.
- 353. Toxicological testing of officers and employees.
- 354. Investigative authority of Inspector General.

AMENDMENTS

2012—Pub. L. 112-141, div. C, title II, § 32932(a)(2), July 6, 2012, 126 Stat. 829, struck out item 307 “Safety information and intervention in Interstate Commerce Commission proceedings”.

Pub. L. 112-141, div. A, title I, § 1314(b), July 6, 2012, 126 Stat. 549, which directed the general amendment of the item relating to section 304 in the analysis for title 49, was executed to the analysis for this chapter, to reflect the probable intent of Congress. Prior to amendment, item 304 read as follows: “Joint activities with the Secretary of Housing and Urban Development”.

2003—Pub. L. 108-168, § 8(b)(2), Dec. 6, 2003, 117 Stat. 2035, added item 354.

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

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

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

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

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

§ 301. Leadership, consultation, and cooperation

The Secretary of Transportation shall—

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

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

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

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

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

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

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

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

(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.

(Pub. L. 97-449, § 1(b), Jan. 12, 1983, 96 Stat. 2418; Pub. L. 102-240, title V, § 5002(a), title VI, § 6017, Dec. 18, 1991, 105 Stat. 2158, 2183; Pub. L. 105-178, title I, § 1504, June 9, 1998, 112 Stat. 251.)

HISTORICAL AND REVISION NOTES

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

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

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

AMENDMENTS

1998—Par. (9). Pub. L. 105-178 added par. (9).  
1991—Pars. (3) to (5). Pub. L. 102-240, § 5002(a), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively. Former par. (5) redesignated (6).

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

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

#### PUBLIC-PRIVATE PARTNERSHIPS

Pub. L. 112-141, div. A, title I, §1534, July 6, 2012, 126 Stat. 584, provided that:

“(a) BEST PRACTICES.—The Secretary [of Transportation] shall compile, and make available to the public on the website of the Department [of Transportation], best practices on how States, public transportation agencies, and other public officials can work with the private sector in the development, financing, construction, and operation of transportation facilities.

“(b) CONTENTS.—The best practices compiled under subsection (a) shall include polices and techniques to ensure that the interests of the traveling public and State and local governments are protected in any agreement entered into with the private sector for the development, financing, construction, and operation of transportation facilities.

“(c) TECHNICAL ASSISTANCE.—The Secretary, on request, may provide technical assistance to States, public transportation agencies, and other public officials regarding proposed public-private partnership agreements for the development, financing, construction, and operation of transportation facilities, including assistance in analyzing whether the use of a public-private partnership agreement would provide value compared with traditional public delivery methods.

“(d) STANDARD TRANSACTION CONTRACTS.—

“(1) DEVELOPMENT.—Not later than 18 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary shall develop standard public-private partnership transaction model contracts for the most popular types of public-private partnerships for the development, financing, construction, and operation of transportation facilities.

“(2) USE.—The Secretary shall encourage States, public transportation agencies, and other public officials to use the model contracts as a base template when developing their own public-private partnership agreements for the development, financing, construction, and operation of transportation facilities.”

#### VESSEL TRANSFER AUTHORITY

Pub. L. 109-364, div. C, title XXXV, §3504, Oct. 17, 2006, 120 Stat. 2516, provided that: “The Secretary of Transportation may transfer or otherwise make available without reimbursement to any other department a vessel under the jurisdiction of the Department of Transportation, upon request by the Secretary of the department that receives the vessel.”

#### BUDGET JUSTIFICATION

Pub. L. 112-141, div. A, title I, §1532, July 6, 2012, 126 Stat. 583, provided that: “The Secretary [of Transportation] shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a budget justification for each agency of the Department concurrently with the annual budget submission of the President to Congress under section 1105(a) of title 31, United States Code.”

Pub. L. 109-59, title I, §1926, Aug. 10, 2005, 119 Stat. 1483, as amended by Pub. L. 110-244, title I, §108(a), June 6, 2008, 122 Stat. 1602, provided that: “Notwithstanding any other provision of law, the Department of Transportation and each agency in the Department shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a budget justification concurrently with the President’s annual budget submission to Congress under section 1105(a) of title 31, United States Code.”

#### COORDINATED TRANSPORTATION SERVICES

Pub. L. 105-178, title III, §3034, June 9, 1998, 112 Stat. 386, provided that:

“(a) STUDY.—The Comptroller General shall conduct a study of Federal departments and agencies (other than the Department of Transportation) that receive Federal financial assistance for non-emergency transportation services.

“(b) CONTENTS.—In conducting the study, the Comptroller General shall—

“(1) identify each Federal department and agency (other than the Department of Transportation) that has received Federal financial assistance for non-emergency transportation services in any of the 3 fiscal years preceding the date of enactment of this Act [June 9, 1998];

“(2) identify the amount of such assistance received by each Federal department and agency in such fiscal years; and

“(3) identify the projects and activities funded using such financial assistance.

“(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results of the study and any recommendations for enhanced coordination between the Department of Transportation and other Federal departments and agencies that provide funding for non-emergency transportation.”

#### ESTABLISHMENT OF NATIONWIDE DIFFERENTIAL GLOBAL POSITIONING SYSTEM

Pub. L. 105-66, title III, §346, Oct. 27, 1997, 111 Stat. 1449, provided that:

“(a) As soon as practicable after the date of enactment of this Act [Oct. 27, 1997], the Secretary of Transportation, acting for the Department of Transportation, may take receipt of such equipment and sites of the Ground Wave Emergency Network (referred to in this section as ‘GWEN’) as the Secretary of Transportation determines to be necessary for the establishment of a nationwide system to be known as the ‘Nationwide Differential Global Positioning System’ (referred to in this section as ‘NDGPS’).

“(b) As soon as practicable after the date of enactment of this Act [Oct. 27, 1997], the Secretary of Transportation may establish the NDGPS. In establishing the NDGPS, the Secretary of Transportation may—

“(1) if feasible, reuse GWEN equipment and sites transferred to the Department of Transportation under subsection (a);

“(2) to the maximum extent practicable, use contractor services to install the NDGPS;

“(3) modify the positioning system operated by the Coast Guard at the time of the establishment of the NDGPS to integrate the reference stations made available pursuant to subsection (a);

“(4) in cooperation with the Secretary of Commerce, ensure that the reference stations referred to in paragraph (3) are compatible with, and integrated into, the Continuously Operating Reference Station (commonly referred to as ‘CORS’) system of the National Geodetic Survey of the Department of Commerce; and

“(5) in cooperation with the Secretary of Commerce, investigate the use of the NDGPS reference stations for the Global Positioning System Integrated Precipitable Water Vapor System of the National Oceanic and Atmospheric Administration.

“(c) The Secretary of Transportation may—

“(1) manage and operate the NDGPS;

“(2) ensure that the service of the NDGPS is provided without the assessment of any user fee; and

“(3) in cooperation with the Secretary of Defense, ensure that the use of the NDGPS is denied to any enemy of the United States.

“(d) In any case in which the Secretary of Transportation determines that contracting for the maintenance of 1 or more NDGPS reference stations is cost-effective, the Secretary of Transportation may enter into a contract to provide for that maintenance.

“(e) The Secretary of Transportation may—

“(1) in cooperation with appropriate representatives of private industries and universities and officials of State governments—

“(A) investigate improvements (including potential improvements) to the NDGPS;

“(B) develop standards for the NDGPS; and

“(C) sponsor the development of new applications for the NDGPS; and

“(2) provide for the continual upgrading of the NDGPS to improve performance and address the needs of—

“(A) the Federal Government;

“(B) State and local governments; and

“(C) the general public.”

#### INTERMODAL TRANSPORTATION ADVISORY BOARD AND OFFICE OF INTERMODALISM

Pub. L. 102-240, title V, §5002(b), (c), Dec. 18, 1991, 105 Stat. 2158, which provided for establishment within the Office of the Secretary of Transportation of an Intermodal Transportation Advisory Board to make recommendations for carrying out responsibilities of the Secretary concerning the coordination of Federal policy on intermodal transportation, and for establishment within the Office of the Secretary of an Office of Intermodalism to develop intermodal transportation data, to coordinate Federal research on intermodal transportation, to provide technical assistance to States and metropolitan planning organizations, and to provide administrative and clerical support to the Intermodal Transportation Advisory Board, was repealed and reenacted as sections 5502 and 5503 of this title by Pub. L. 103-272, §§1(d), 7(b), July 5, 1994, 108 Stat. 849, 850, 1379.

#### MODEL INTERMODAL TRANSPORTATION PLANS

Pub. L. 102-240, title V, §5003, Dec. 18, 1991, 105 Stat. 2159, which directed Secretary of Transportation to make grants to States, representing a variety of geographic regions and transportation needs, patterns, and modes, for purpose of developing model State intermodal transportation plans consistent with policy of United States to encourage and promote development of national intermodal transportation system, was repealed and reenacted as section 5504 of this title by Pub. L. 103-272, §§1(d), 7(b), July 5, 1994, 108 Stat. 850, 1379.

#### NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION

Pub. L. 102-240, title V, §5005, Dec. 18, 1991, 105 Stat. 2160, provided for establishment of a National Commission on Intermodal Transportation, consisting of 11 appointed members, to make a complete investigation and study of intermodal transportation in the United States and internationally and to send a report to Congress not later than Sept. 30, 1993, containing recommendations for implementing the policy set out in section 302(e) of this title, with the Commission to terminate on the 180th day following transmittal of the report, prior to repeal by Pub. L. 104-287, §7(3), Oct. 11, 1996, 110 Stat. 3400.

#### BORDER CROSSINGS

Pub. L. 102-240, title VI, §6015, Dec. 18, 1991, 105 Stat. 2181, directed Secretary of Transportation to identify existing and emerging trade corridors and transportation subsystems that facilitate trade between United States, Canada, and Mexico and to recommend changes to improve and integrate corridor subsystems in order to achieve increased productivity and use of innovative marketing techniques, and directed Secretary to report to Congress not later than 18 months after Dec. 18, 1991, on transportation infrastructure needs and associated costs and to propose an agenda to develop systemwide integration of services for national benefits.

#### UNDERGROUND PIPELINES

Pub. L. 102-240, title VI, §6020, Dec. 18, 1991, 105 Stat. 2184, directed Secretary of Transportation to conduct a

study to evaluate feasibility, costs, and benefits of constructing and operating pneumatic capsule pipelines for underground movement of commodities other than hazardous liquids and gas, and to submit, not later than 2 years after Dec. 18, 1991, a report to Congress on the results of the study, prior to repeal by Pub. L. 104-287, §7(3), Oct. 11, 1996, 110 Stat. 3400.

#### LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY

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

#### COMMERCIAL EXPENDABLE LAUNCH VEHICLE ACTIVITIES

Designation of Department of Transportation as lead agency and duties of the Secretary for encouraging, facilitating, and developing commercial expendable launch vehicle operations by private enterprise, see Ex. Ord. No. 12465, Feb. 24, 1984, 49 F.R. 7211, set out under section 50903 of Title 51, National and Commercial Space Programs.

#### EX. ORD. NO. 13274. ENVIRONMENTAL STEWARDSHIP AND TRANSPORTATION INFRASTRUCTURE PROJECT REVIEWS

Ex. Ord. No. 13274, Sept. 18, 2002, 67 F.R. 59449, as amended by Ex. Ord. No. 13286, §2, Feb. 28, 2003, 68 F.R. 10619, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to enhance environmental stewardship and streamline the environmental review and development of transportation infrastructure projects, it is hereby ordered as follows:

SECTION 1. *Policy.* The development and implementation of transportation infrastructure projects in an efficient and environmentally sound manner is essential to the well-being of the American people and a strong American economy. Executive departments and agencies (agencies) shall take appropriate actions, to the extent consistent with applicable law and available resources, to promote environmental stewardship in the Nation's transportation system and expedite environmental reviews of high-priority transportation infrastructure projects.

SEC. 2. *Actions.* (a) For transportation infrastructure projects, agencies shall, in support of the Department of Transportation, formulate and implement administrative, policy, and procedural mechanisms that enable each agency required by law to conduct environmental reviews (reviews) with respect to such projects to ensure completion of such reviews in a timely and environmentally responsible manner.

(b) In furtherance of the policy set forth in section 1 of this order, the Secretary of Transportation, in coordination with agencies as appropriate, shall advance environmental stewardship through cooperative actions with project sponsors to promote protection and enhancement of the natural and human environment in the planning, development, operation, and maintenance of transportation facilities and services.

(c) The Secretary of Transportation shall designate for the purposes of this order a list of high-priority transportation infrastructure projects that should receive expedited agency reviews and shall amend such list from time to time as the Secretary deems appro-

priate. For projects on the Secretary's list, agencies shall to the maximum extent practicable expedite their reviews for relevant permits or other approvals, and take related actions as necessary, consistent with available resources and applicable laws, including those relating to safety, public health, and environmental protection.

**SEC. 3. *Interagency Task Force.*** (a) *Establishment.* There is established, within the Department of Transportation for administrative purposes, the interagency "Transportation Infrastructure Streamlining Task Force" (Task Force) to: (i) monitor and assist agencies in their efforts to expedite a review of transportation infrastructure projects and issue permits or similar actions, as necessary; (ii) review projects, at least quarterly, on the list of priority projects pursuant to section 2(c) of this order; and (iii) identify and promote policies that can effectively streamline the process required to provide approvals for transportation infrastructure projects, in compliance with applicable law, while maintaining safety, public health, and environmental protection.

(b) *Membership and Operation.* The Task Force shall promote interagency cooperation and the establishment of appropriate mechanisms to coordinate Federal, State, tribal, and local agency consultation, review, approval, and permitting of transportation infrastructure projects. The Task Force shall consist exclusively of the following officers of the United States: the Secretary of Agriculture, Secretary of Commerce, Secretary of Transportation (who shall chair the Task Force), Secretary of the Interior, Secretary of Defense, Secretary of Homeland Security, Administrator of the Environmental Protection Agency, Chairman of the Advisory Council on Historic Preservation, and Chairman of the Council on Environmental Quality. A member of the Task Force may designate, to perform the Task Force functions of the member, any person who is part of the member's department, agency, or office and who is either an officer of the United States appointed by the President with the advice and consent of the Senate or a member of the Senior Executive Service. The Task Force shall report to the President through the Chairman of the Council on Environmental Quality.

**SEC. 4. *Report.*** At least once each year, the Task Force shall submit to the President a report that: (a) Describes the results of the coordinated and expedited reviews on a project-by-project basis, and identifies those procedures and actions that proved to be most useful and appropriate in coordinating and expediting the review of the projects.

(b) Identifies substantive and procedural requirements of Federal, State, tribal, and local laws, regulations, and Executive Orders that are inconsistent with, duplicative of, or are structured so as to restrict their efficient implementation with other applicable requirements.

(c) Makes recommendations regarding those additional actions that could be taken to: (i) address the coordination and expediting of reviews of transportation infrastructure projects by simplifying and harmonizing applicable substantive and procedural requirements; and (ii) elevate and resolve controversies among Federal, State, tribal, and local agencies related to the review or impacts of transportation infrastructure projects in a timely manner.

(d) Provides any other recommendations that would, in the judgement of the Task Force, advance the policy set forth in section 1 of this order.

**SEC. 5. *Preservation of Authority.*** Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals.

**SEC. 6. *Judicial Review.*** This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United

States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

### § 302. Policy standards for transportation

(a) The Secretary of Transportation is governed by the transportation policy of sections 10101 and 13101 of this title in addition to other laws.

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

(c) The Secretary shall consider the needs—

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

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

(A) conducting economic and technological research;

(B) demonstrating advancements in high-speed ground transportation technologies;

(C) establishing a comprehensive policy for the development of such systems and the effective integration of the various high-speed ground transportation technologies; and

(D) minimizing the long-term risks of investors.

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

(e) **INTERMODAL TRANSPORTATION.**—It is the policy of the United States Government to encourage and promote development of a national intermodal transportation system in the United States to move people and goods in an energy-efficient manner, provide the foundation for improved productivity growth, strengthen the Nation's ability to compete in the global economy, and obtain the optimum yield from the Nation's transportation resources.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 102-240, title I, §1036(a), title V, §5001, Dec. 18, 1991, 105 Stat. 1978, 2158; Pub. L. 103-272, §5(m)(6), July 5, 1994, 108 Stat. 1375; Pub. L. 104-88, title III, §308(a), Dec. 29, 1995, 109 Stat. 946.)

#### HISTORICAL AND REVISION NOTES

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

In subsection (a), the words "In carrying out his duties and responsibilities under this chapter" before "Secretary of Transportation" are omitted as surplus. The words "the transportation policy of sections 10101 and 10101a of this title in addition to other laws" are substituted for "all applicable statutes including the policy standards set forth in the Federal Aviation Act

of 1958, as amended [49 U.S.C. 1301 et seq.]; the national transportation policy of the Interstate Commerce Act, as amended; title 23, relating to Federal-aid highways; and title 14, titles 52 and 53 of the Revised Statutes, the Act of April 25, 1940, as amended, and the Act of September 2, 1958, as amended, relating to the United States Coast Guard” because each of the omitted laws is now applicable to the Secretary of Transportation and the Department of Transportation as the result of the restatement of those laws, and the Secretary is therefore bound to follow those laws by their own terms.

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

#### AMENDMENTS

1995—Subsec. (a). Pub. L. 104-88 substituted “13101” for “10101a”.

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

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

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

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

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of this title.

#### EFFECTIVE DATE OF 1991 AMENDMENT

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

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

(a) It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

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

(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsection (d), the Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204<sup>1</sup> of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local

significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

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

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

(d) DE MINIMIS IMPACTS.—

(1) REQUIREMENTS.—

(A) REQUIREMENTS FOR HISTORIC SITES.—

The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (c)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (c)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, in accordance with the consultation process required under section 306108 of title 54, United States Code,<sup>2</sup> that—

(i) the transportation program or project will have no adverse effect on the historic site; or

(ii) there will be no historic properties affected by the transportation program or project;

(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or water-

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. The words “, United States Code” probably should not appear.

fowl refuges, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 100–17, title I, §133(d), Apr. 2, 1987, 101 Stat. 173; Pub. L. 109–59, title VI, §6009(a)(2), Aug. 10, 2005, 119 Stat. 1875; Pub. L. 113–287, §5(p), Dec. 19, 2014, 128 Stat. 3272.)

#### HISTORICAL AND REVISION NOTES

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

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

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

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

#### REFERENCES IN TEXT

Section 204 of title 23, referred to in subsec. (c), was repealed and a new section 204 enacted by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473, 489.

#### AMENDMENTS

2014—Subsec. (d)(2)(A). Pub. L. 113–287 substituted “section 306108 of title 54, United States Code,” for “section 106 of the National Historic Preservation Act (16 U.S.C. 470f)” in introductory provisions.

2005—Subsec. (c). Pub. L. 109–59, §6009(a)(2)(A), inserted heading and substituted “Subject to subsection (d), the Secretary” for “The Secretary” in introductory provisions.

Subsec. (d). Pub. L. 109–59, §6009(a)(2)(B), added subsec. (d).

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

#### TREATMENT OF MILITARY FLIGHT OPERATIONS

Pub. L. 105–85, div. A, title X, §1079, Nov. 18, 1997, 111 Stat. 1916, provided that: “No military flight operation (including a military training flight), or designation of airspace for such an operation, may be treated as a transportation program or project for purposes of section 303(c) of title 49, United States Code.”

### § 303a. Development of water transportation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

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

**§ 304. Application of categorical exclusions for multimodal projects**

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COOPERATING AUTHORITY.—The term “cooperating authority” means a Department of Transportation operating authority that is not the lead authority with respect to a project.

(2) LEAD AUTHORITY.—The term “lead authority” means a Department of Transportation operating administration or secretarial office that—

(A) is the lead authority over a proposed multimodal project; and

(B) has determined that the components of the project that fall under the modal expertise of the lead authority—

(i) satisfy the conditions for a categorical exclusion under implementing regulations or procedures of the lead authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) do not require the preparation of an environmental assessment or environmental impact statement under that Act.

(3) MULTIMODAL PROJECT.—The term “multimodal project” has the meaning given the term in section 139(a) of title 23.

(b) EXERCISE OF AUTHORITIES.—The authorities granted in this section may be exercised for a multimodal project, class of projects, or program of projects that are carried out under this title.

(c) APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.—In considering the environmental impacts of a proposed multimodal project, a lead authority may apply a categorical exclusion designated under the implementing regulations or procedures of a cooperating authority for other components of the project, subject to the conditions that—

(1) the multimodal project is funded under 1 grant agreement administered by the lead authority;

(2) the multimodal project has components that require the expertise of a cooperating authority to assess the environmental impacts of the components;

(3) the component of the project to be covered by the categorical exclusion of the cooperating authority has independent utility;

(4) the cooperating authority, in consultation with the lead authority—

(A) follows implementing regulations or procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) determines that a categorical exclusion under that Act applies to the components; and

(5) the lead authority has determined that—

(A) the project, using the categorical exclusions of the lead authority and each applicable cooperating authority, does not individually or cumulatively have a significant impact on the environment; and

(B) extraordinary circumstances do not exist that merit additional analysis and docu-

mentation in an environmental impact statement or environmental assessment required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) MODAL COOPERATION.—

(1) IN GENERAL.—A cooperating authority shall provide modal expertise to the lead authority on such aspects of the multimodal project in which the cooperating authority has expertise.

(2) USE OF CATEGORICAL EXCLUSION.—In a case described in paragraph (1), the 1 or more categorical exclusions of a cooperating authority may be applied by the lead authority once the cooperating authority reviews the project on behalf of the lead authority and determines the project satisfies the conditions for a categorical exclusion under the implementing regulations or procedures of the cooperating authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 112-141, div. A, title I, §1314(a), July 6, 2012, 126 Stat. 547.)

HISTORICAL AND REVISION NOTES

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

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

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

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

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(2)(B)(i), (c)(4)(A), (5)(B), and (d)(2), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2012—Pub. L. 112-141 amended section generally. Prior to amendment, section related to joint activities with the Secretary of Housing and Urban Development.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

**§ 305. Transportation investment standards and criteria**

(a) Subject to sections 301-304<sup>1</sup> of this title, the Secretary of Transportation shall develop standards and criteria to formulate and economically evaluate all proposals for investing amounts of the United States Government in transportation facilities and equipment. Based on experience, the Secretary shall revise the standards and criteria. When approved by Congress, the Secretary shall prescribe standards and criteria developed or revised under this subsection. This subsection does not apply to—

- (1) the acquisition of transportation facilities or equipment by a department, agency, or instrumentality of the Government to provide transportation for its use;
- (2) an inter-oceanic canal located outside the 48 contiguous States;
- (3) defense features included at the direction of the Department of Defense in designing and constructing civil air, sea, or land transportation;
- (4) foreign assistance programs;
- (5) water resources projects; or
- (6) grant-in-aid programs authorized by law.

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

- (1) prepare the survey, plan, or report under those standards and criteria and on the basis of information provided by the Secretary on the—
  - (A) projected growth of transportation needs and traffic in the affected area;
  - (B) the relative efficiency of various modes of transportation;
  - (C) the available transportation services in the area; and
  - (D) the general effect of the proposed investment on existing modes of transportation and on the regional and national economy;
- (2) coordinate the survey, plan, or report—
  - (A) with the Secretary and include the views and comments of the Secretary; and
  - (B) as appropriate, with other departments, agencies, and instrumentalities of the Government, States, and local governments, and include their views and comments; and
- (3) send the survey, plan, or report to the President for disposition under law and procedure established by the President.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2420.)

HISTORICAL AND REVISION NOTES

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

In subsection (a), before clause (1), the words “consistent with national transportation policies” after

<sup>1</sup> See References in Text note below.

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

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

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

REFERENCES IN TEXT

Section 304 of this title, referred to in subsec. (a), was amended generally by Pub. L. 112-141, div. A, title I, §1314(a), July 6, 2012, 126 Stat. 547.

**§ 306. Prohibited discrimination**

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

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

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

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

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

(e) When a matter is referred to the Attorney General under subsection (d)(2) of this section,

or when the Attorney General has reason to believe that a person is engaged in a pattern or practice violating this section, the Attorney General may begin a civil action in a district court of the United States for appropriate relief. (Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2421; Pub. L. 98-216, §2(3), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103-272, §5(m)(7), July 5, 1994, 108 Stat. 1376.)

HISTORICAL AND REVISION NOTES  
PUB. L. 97-449

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

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

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

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

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

PUB. L. 98-216

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

REFERENCES IN TEXT

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

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

AMENDMENTS

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

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

[§ 307. Repealed. Pub. L. 112-141, div. C, title II, § 32932(a)(1), July 6, 2012, 126 Stat. 829]

Section, Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2421, related to safety information and intervention in Interstate Commerce Commission proceedings.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 308. Reports

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

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

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

- (A) the development and regulation of civil aeronautics;
- (B) the use of airspace of the United States; and
- (C) the improvement of the air navigation and traffic control system; and

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

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

- (1) economic and technological development of the ports;
- (2) extent to which the ports contribute to the national welfare and security; and
- (3) factors that may impede the continued development of the ports.

[(d) Repealed. Pub. L. 104-66, title I, §1121(h), Dec. 21, 1995, 109 Stat. 724.]

(e)(1) The Secretary shall submit to Congress in March 1998, and in March of each even-numbered year thereafter, a report of estimates by the Secretary on the current performance and condition of public mass transportation systems with recommendations for necessary administrative or legislative changes.

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

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2422; Pub. L. 98-216, §2(1)(A), Feb. 14, 1984, 98 Stat. 4; Pub. L. 104-66, title I, §1121(h), Dec. 21, 1995, 109 Stat. 724; Pub. L. 105-362, title XV, §1502(c), Nov. 10, 1998, 112 Stat. 3295.)

HISTORICAL AND REVISION NOTES  
PUB. L. 97-449

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

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

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

PUB. L. 98-216

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

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

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

AMENDMENTS

1998—Subsec. (e)(1). Pub. L. 105-362 substituted “submit to Congress in March 1998, and in March of each even-numbered year thereafter, a report” for “submit a report to Congress in January of each even-numbered year”.

1995—Subsec. (d). Pub. L. 104-66 struck out subsec. (d) which related to reports to Congress listing assistance provided by Government to railroad industry.

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

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

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

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which reporting provisions contained in subsecs. (a) and (b) of this section

and, as subsequently amended, subsec. (e) of this section, are listed, respectively, as the 11th item on page 133, the last item on page 132, and the 5th item on page 138), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

ANNUAL REPORT ON SAFETY ENFORCEMENT ACTIVITIES  
OF FEDERAL AVIATION ADMINISTRATION

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

§ 309. High-speed ground transportation

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

(b)(1) The Secretary may award contracts and grants for demonstrations to determine the contributions that high-speed ground transportation could make to more efficient, safe, and economical intercity transportation systems. Such demonstrations shall be designed to measure and evaluate such factors as the public response to new equipment, higher speeds, variations in fares, improved comfort and convenience, and more frequent service. In connection with grants and contracts for demonstrations under this section, the Secretary shall provide for financial participation by private industry to the maximum extent practicable.

(2)(A) In connection with the authority provided under paragraph (1), there is established a national high-speed ground transportation technology demonstration program, which shall be separate from the national magnetic levitation prototype development program established under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991 and shall be managed by the Secretary of Transportation.

(B)(i) Any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem, or system in any revenue service high-speed ground transportation project or system under construction or in operation at the time the application is made.

(ii) Grants or contracts shall be awarded only to eligible applicants showing demonstrable ben-

efit to the research and development, design, construction, or ultimate operation of any maglev technology or high-speed steel wheel on rail technology. Criteria to be considered in evaluating the suitability of a proposal under this paragraph shall include—

- (I) feasibility of guideway or track design and construction;
- (II) safety and reliability;
- (III) impact on the environment in comparison to other high-speed ground transportation technologies;
- (IV) minimization of land use;
- (V) effect on human factors related to high-speed ground transportation;
- (VI) energy and power consumption and cost;
- (VII) integration of high-speed ground transportation systems with other modes of transportation;
- (VIII) actual and projected ridership; and
- (IX) design of signaling, communications, and control systems.

(C) For the purposes of this paragraph, the term “eligible applicant” means any United States private business, State government, local government, organization of State or local government, or any combination thereof. The term does not include any business owned in whole or in part by the Federal Government.

(D) The amount and distribution of grants or contracts made under this paragraph shall be determined by the Secretary. No grant or contract may be awarded under this paragraph to demonstrate a technology to be incorporated into a project or system located in a State that prohibits under State law the expenditure of non-Federal public funds or revenues on the construction or operation of such project or system.

(E) Recipients of grants or contracts made pursuant to this paragraph shall agree to submit a report to the Secretary detailing the results and benefits of the technology demonstration proposed, as required by the Secretary.

(c)(1) In carrying out the responsibilities of the Secretary under this section, the Secretary is authorized to enter into 1 or more cooperative research and development agreements (as defined by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and 1 or more funding agreements (as defined by section 201(b) of title 35, United States Code), with United States companies for the purpose of—

(A) conducting research to overcome technical and other barriers to the development and construction of practicable high-speed ground transportation systems and to help advance the basic generic technologies needed for these systems; and

(B) transferring the research and basic generic technologies described in subparagraph (A) to industry in order to help create a viable commercial high-speed ground transportation industry within the United States.

(2) In a cooperative agreement or funding agreement under paragraph (1), the Secretary may agree to provide not more than 80 percent of the cost of any project under the agreement. Not less than 5 percent of the non-Federal entity’s share of the cost of any such project shall be paid in cash.

(3) The research, development, or utilization of any technology pursuant to a cooperative agreement under paragraph (1), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(4) The research, development, or utilization of any technology pursuant to a funding agreement under paragraph (1), including the determination of all licensing and ownership rights, shall be subject to the provisions of chapter 18 of title 35, United States Code.

(5) At the conclusion of fiscal year 1993 and again at the conclusion of fiscal year 1996, the Secretary shall submit reports to Congress regarding research and technology transfer activities conducted pursuant to the authorization contained in paragraph (1).

(d)(1) Not later than June 1, 1995, the Secretary shall complete and submit to Congress a study of the commercial feasibility of constructing 1 or more high-speed ground transportation systems in the United States. Such study shall consist of—

- (A) an economic and financial analysis;
- (B) a technical assessment; and

(C) recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems.

(2) The economic and financial analysis referred to in paragraph (1)(A) shall include—

(A) an examination of the potential market for a nationwide high-speed ground transportation network, including a national magnetic levitation ground transportation system;

(B) an examination of the potential markets for short-haul high-speed ground transportation systems and for intercity and long-haul high-speed ground transportation systems, including an assessment of—

- (i) the current transportation practices and trends in each market; and
- (ii) the extent to which high-speed ground transportation systems would relieve the current or anticipated congestion on other modes of transportation;

(C) projections of the costs of designing, constructing, and operating high-speed ground transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for private and public financing;

(D) the availability of rights-of-way to serve each market, including the extent to which average and maximum speeds would be limited by the curvature of existing rights-of-way and the prospect of increasing speeds through the acquisition of additional rights-of-way without significant relocation of residential, commercial, or industrial facilities;

(E) a comparison of the projected costs of the various competing high-speed ground transportation technologies;

(F) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual

high-speed ground transportation systems and the completion of a nationwide high-speed ground transportation network;

(G) an examination of the effect of the construction and operation of high-speed ground transportation systems on regional employment and economic growth;

(H) recommendations for the roles appropriate for local, regional, and State governments to facilitate construction of high-speed ground transportation systems, including the roles of regional economic development authorities;

(I) an assessment of the potential for a high-speed ground transportation technology export market;

(J) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed ground transportation;

(K) an examination of the role of the National Railroad Passenger Corporation in the development and operation of high-speed ground transportation systems; and

(L) any other economic or financial analyses the Secretary considers important for carrying out this section.

(3) The technical assessment referred to in paragraph (1)(B) shall include—

(A) an examination of the various technologies developed for use in the transportation of passengers by high-speed ground transportation, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system;

(B) an examination of the potential role of a United States designed maglev system, developed as a prototype under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, in relation to the implementation of other high-speed ground transportation technologies and the national transportation system;

(C) an examination of the work being done to establish safety standards for high-speed ground transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988;

(D) an examination of the need to establish appropriate technological, quality, and environmental standards for high-speed ground transportation systems;

(E) an examination of the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed ground transportation systems, including the potential for the use of existing rights-of-way;

(F) an examination of the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed ground transportation systems; and

(G) any other technical assessments the Secretary considers important for carrying out this section.

(e)(1) Within 12 months after the submission of the study required by subsection (d), the Sec-

retary shall establish the national high-speed ground transportation policy (hereinafter in this section referred to as the "Policy").

(2) The Policy shall include—

(A) provisions to promote the design, construction, and operation of high-speed ground transportation systems in the United States;

(B) a determination whether the various competing high-speed ground transportation technologies can be effectively integrated into a national network and, if not, whether 1 or more such technologies should receive preferential encouragement from the Federal Government to enable the development of such a national network;

(C) a strategy for prioritizing the markets and corridors in which the construction of high-speed ground transportation systems should be encouraged; and

(D) provisions designed to promote American competitiveness in the market for high-speed ground transportation technologies.

(3) The Secretary shall solicit comments from the public in the development of the Policy and may consult with other Federal agencies as appropriate in drafting the Policy.

(Added Pub. L. 102-240, title I, §1036(c)(1), Dec. 18, 1991, 105 Stat. 1982.)

#### REFERENCES IN TEXT

Section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsecs. (b)(2)(A) and (d)(3)(B), is section 1036(b) of Pub. L. 102-240, which is set out below.

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (c)(3), is Pub. L. 96-480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

Section 7 of the Rail Safety Improvement Act of 1988, referred to in subsec. (d)(3)(C), is section 7 of Pub. L. 100-342, which amended section 431 of Title 45, Railroads.

#### EFFECTIVE DATE

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as an Effective Date of 1991 Amendment note under section 104 of Title 23, Highways.

#### NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM

Pub. L. 102-240, title I, §1036(b), Dec. 18, 1991, 105 Stat. 1978, provided that:

“(1) MANAGEMENT OF PROGRAM.—There is hereby established a national magnetic levitation prototype development program to be managed by a program director appointed jointly by the Secretary and the Assistant Secretary of the Army for Civil Works (hereinafter in this subsection referred to as the ‘Assistant Secretary’). To carry out such program, the Secretary and the Assistant Secretary shall establish a national maglev joint project office (hereinafter in this subsection referred to as the ‘Maglev Project Office’), which shall be headed by the program director, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions. In carrying out such program, the program director shall consult with appropriate

Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency.

“(2) PHASE ONE CONTRACTS.—

“(A) REQUEST FOR PROPOSALS.—Not later than 12 months after the date of the enactment of this Act [Dec. 18, 1991], the Maglev Project Office shall release a request for proposals for development of conceptual designs for a maglev system and for research to facilitate the development of such conceptual designs.

“(B) AWARD OF CONTRACTS.—Not later than 15 months after the date of the enactment of this Act, the Secretary and the Assistant Secretary shall, based on the recommendations of the program director, award 1-year contracts for research and development to no fewer than 5 eligible applicants. If fewer than 5 complete applications have been received, contracts shall be awarded to as many eligible applicants as is practical.

“(C) FACTORS AND CONDITIONS TO BE CONSIDERED.—The Secretary and the Assistant Secretary may approve contracts under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights-of-way, the potential for the guideway design to be a national standard, the applicant's resources, capabilities, and history of successfully designing and developing systems of similar complexity, and the desirability of geographic diversity among contractors and only if the applicant agrees to submit a report to the Maglev Project Office detailing the results of the research and development and agrees to provide for matching of the phase one contract at a 90 percent Federal, 10 percent non-Federal, cost share.

“(3) PHASE TWO CONTRACTS.—Within 3 months of receiving the final reports of contract activities under paragraph (2), and based only on such reports and the recommendations of the program director, the Secretary and the Assistant Secretary shall select not more than 3 eligible applicants from among the contract recipients submitting reports under paragraph (2) to receive 18-month contracts for research and development leading to a detailed design for a prototype maglev system. The Secretary and the Assistant Secretary may only award contracts under this paragraph if—

“(A) they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into an operational prototype as described in paragraph (4),

“(B) the applicant agrees to submit the detailed design within such 18-month period to the Maglev Project Office and the selection committee described in paragraph (4), and

“(C) the applicant agrees to provide for matching of the phase two contract at an 80 percent Federal, 20 percent non-Federal, cost share.

“(4) PROTOTYPE.—

“(A) SELECTION OF DESIGN.—Within 6 months of receiving the detailed designs developed under paragraph (3), the Secretary and the Assistant Secretary shall, based on the recommendations of the selection committee described in this subparagraph, select 1 design for development into a full-scale prototype, unless the Secretary and the Assistant Secretary determine jointly that no design shall be selected, based on an assessment of technical feasibility and projected cost of construction and operation of the prototype. A selection committee of 8 members, consisting of—

“(i) 1 member to be appointed by the Secretary,

“(ii) 1 member to be appointed by the Assistant Secretary,

“(iii) 3 members to be appointed by the Senate majority and minority leaders, and

“(iv) 3 members to be appointed by the Speaker of the House and the minority leader of the House, shall be appointed not later than 1 year following the award of contracts under paragraph (3). The selection committee, within 3 months of receiving the detailed designs developed under paragraph (3), shall make a recommendation to the Secretary and the Assistant Secretary as to the best prototype design or the unsuitability of any design. The program director shall provide technical reviews of the phase two contract reports to the selection committee and otherwise provide any technical assistance that the committee requires to assist it in making a recommendation. In the event that the Secretary and the Assistant Secretary determine jointly not to select a design for development under this subsection, they shall report to Congress on the basis for such determination, together with recommendations for future action, including further research, development, or design, termination of the program, or such other action as may be appropriate.

“(B) AWARD OF CONSTRUCTION GRANT OR CONTRACT.—Unless the Secretary and the Assistant Secretary determine not to proceed pursuant to subparagraph (A), they shall, not later than 3 months after selection of a design for development into a full-scale prototype, and based on the recommendations of the program director, award 1 construction grant or contract to the applicant whose detailed design was selected under subparagraph (A) for the purpose of constructing a prototype maglev system in accordance with the selected design. Not more than 75 percent of the cost of the project shall be borne by the United States.

“(C) FACTORS TO BE CONSIDERED IN SELECTION.—Selection of the detailed design under this paragraph shall be based on consideration of the following factors, among others:

“(i) The project shall be capable of utilizing Interstate highway rights-of-way along or above a significant portion of its route, and may also use railroad rights-of-way along or above any portion of the railroad route.

“(ii) The total length of guideway shall be at least 19 miles and allow significant full-speed operations between stops.

“(iii) The project shall be constructed and ready for operational testing within 3 years after the award of the contract or grant.

“(iv) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

“(v) The project shall be located in an area that provides a potential ridership base for future commercial operation.

“(vi) The project shall utilize a technology capable of being applied in commercial service in most parts of the contiguous United States.

“(vii) The project shall have at least 1 switch.

“(viii) The project shall be intermodal in nature connecting a major metropolitan area with an airport, port, passenger rail station, or other transportation mode.

“(D) ADDITIONAL FACTORS FOR CONSIDERATION.—In awarding a grant or contract under this paragraph, the Secretary shall encourage the development of domestic manufacturing capabilities. In selecting among eligible applicants, the Secretary shall consider existing railroads and equipment manufacturers with excess production capacity, including railroads that have experience in advanced technologies (including self-propelled cars).

“(5) LICENSING.—

“(A) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this subsection shall be disclosed.

“(B) COMMERCIAL INFORMATION.—The research, development, and use of any technology developed pur-

suant to an agreement reached pursuant to this subsection, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714). In addition, the Secretary and the Assistant Secretary may require any grant or contract recipient to assure that research and development be performed substantially in the United States and that the products embodying the inventions made under any agreement pursuant to this subsection or produced through the use of such inventions be manufactured substantially in the United States.

“(6) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports to Congress on progress made under this subsection.

“(7) ELIGIBLE APPLICANT DEFINED.—For purposes of this subsection, the term ‘eligible applicant’ means a United States private business, United States public or private education and research organization, Federal laboratory, or a consortium of such businesses, organizations, and laboratories.”

SUBCHAPTER II—ADMINISTRATIVE

§ 321. Definitions

In this subchapter, “aeronautics”, “air commerce”, and “air navigation facility” have the same meanings given those terms in section 40102(a) of this title.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2422; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103-272, §5(m)(8), July 5, 1994, 108 Stat. 1376; Pub. L. 103-429, §6(2), Oct. 31, 1994, 108 Stat. 4378.)

HISTORICAL AND REVISION NOTES  
PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
321 .....	(no source).	

A number of the source provisions of the subchapter are taken from 49:ch. 20. The text of 49:ch. 20 contains general definitions, some of which are used in those source provisions. The section includes those definitions from 49:ch. 20 that are used in the source provisions included in the subchapter.

PUB. L. 103-429

This makes a clarifying amendment to 49:321.

AMENDMENTS

1994—Pub. L. 103-429 struck out “, respectively” after “of this title”.

Pub. L. 103-272 substituted “section 40102(a) of this title” for “section 101(2), (4), and (8) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(2), (4), (8))”.

1984—Pub. L. 98-216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-429, §9, Oct. 31, 1994, 108 Stat. 4391, provided that: “The amendments made by sections 6(2)–(15), (19)–(35), (37)–(39), (41), (44)–(52), (54)–(62), (65), (66)(B), (70), (73)–(76), and (78)–(81) of this Act [enacting section 41312 of this title and amending this section and sections 5103, 5104, 5115, 5125, 5307, 5318, 5320, 5323, 5326, 5327, 5331, 5337, 5565, 20136, 22108, 24501, 24904, 30141, 30165, 30166, 30308, 31501, 32101, 32304, 32309, 32505, 32703, 32705, 32706, 32908 to 32910, 32913, 33101, 33106, 40102, 40104, 40110, 41103, 41110, 41734, 44502, 44701, 44711, 44937, 45105, 45302, 46301, 46310, 46502, 47101, 47113, 47114, 47128, 47531, 47532, 60109, and 60112 of this title] shall take effect on July 5, 1994.”

§ 322. General powers

(a) The Secretary of Transportation may prescribe regulations to carry out the duties and powers of the Secretary. An officer of the Department of Transportation may prescribe regulations to carry out the duties and powers of the officer.

(b) The Secretary may delegate, and authorize successive delegations of, duties and powers of the Secretary to an officer or employee of the Department. An officer of the Department may delegate, and authorize successive delegations of, duties and powers of the officer to another officer or employee of the Department. However, the duties and powers specified in sections 103(c)(1),<sup>1</sup> 104(c)(1), and 106(g)(1) of this title may not be delegated to an officer or employee outside the Administration concerned.

(c) On a reimbursable basis when appropriate, the Secretary may, in carrying out aviation duties and powers—

(1) use the available services, equipment, personnel, and facilities of other civilian or military departments, agencies, and instrumentalities of the United States Government, with their consent;

(2) cooperate with those departments, agencies, and instrumentalities in establishing and using aviation services, equipment, and facilities of the Department; and

(3) confer and cooperate with, and use the services, records, and facilities of, State, territorial, municipal, and other agencies.

(d) The Secretary may make expenditures to carry out aviation duties and powers, including expenditures for—

(1) rent and personal services;

(2) travel expenses;

(3) office furniture, equipment, supplies, lawbooks, newspapers, periodicals, and reference books, including exchanges;

(4) printing and binding;

(5) membership in and cooperation with domestic or foreign organizations related to, or a part of, the civil aeronautics industry or the art of aeronautics;

(6) payment of allowances and other benefits to employees stationed in foreign countries to the same extent authorized for members of the Foreign Service of comparable grade;

(7) investigations and studies about aeronautics; and

(8) acquiring, exchanging, operating, and maintaining passenger-carrying aircraft and automobiles and other property.

(e) The Secretary may negotiate, without advertising, the purchase of technical or special property related to air navigation when the Secretary decides that—

(1) making the property would require a substantial initial investment or an extended period of preparation; and

(2) procurement by advertising would likely result in additional cost to the Government by duplication of investment or would result in duplication of necessary preparation that would unreasonably delay procuring the property.

<sup>1</sup> See References in Text note below.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2422.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
322(a) .....	49:1657(e)(1) (last 19 words), (2) (last 19 words), (f), (g).	Oct. 15, 1966, Pub. L. 89-670, §9(e)-(g), 80 Stat. 944.
322(b) .....	49:1344(d) (less words after semicolon).  49:1657(e)(1) (less last 19 words), (2) (less last 19 words), (3), 5 App. U.S.C.	Aug. 23, 1958, Pub. L. 85-726, §§302(k), 303(a), (d) (less words after semicolon), 80 Stat. 747, 749.  Reorg. Plan No. 2 of 1968, eff. July 1, 1968, §2, 82 Stat. 1369.
322(c) .....	49:1343(i).	
322(d) .....	49:1344(a).	
322(e) .....	49:1344(e).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §303(e); added May 21, 1970, Pub. L. 91-258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94-353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96-470, §112(e), 94 Stat. 2240.

In the chapter, the words “Secretary of Transportation” and “Secretary” are substituted for “Administrator” in the provisions of the Federal Aviation Act of 1958 (Pub. L. 85-726, 72 Stat. 731) restated in the revised chapter because of the transfer of aviation functions to the Secretary under 49:1655(c)(1).

In subsection (a), the words “may prescribe regulations to carry out the duties and powers” are substituted for “may make such rules and regulations as may be necessary to carry out . . . functions, powers, and duties” for consistency and to eliminate unnecessary words. The text of 49:1657(f) and (g) is omitted as executed because the transfer of personnel, assets, and liabilities, etc., has been accomplished.

In subsection (b), the words “Except where this chapter vests in any administration, agency or board, specific functions, powers, and duties” before “the Secretary may” in 49:1657(e)(1) are omitted because of the specific wording of sections 103, 104, and 106 of the revised title. The words “in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to or vested in the Secretary in this chapter” before “delegate” in 49:1657(e)(1) are omitted because the authority of the Secretary to delegate is consolidated in the subsection. The words “the duties and powers of the Secretary” are substituted for “any of his residual functions, powers, and duties” in 49:1657(e)(1) and “any of the functions transferred to him by this reorganization plan” in section 2 of Reorganization Plan No. 2 of 1968 (eff. July 1, 1968, 82 Stat. 1369), for clarity and consistency. The words “as he may designate” and “of such functions, powers, and duties as he may deem desirable” are omitted as surplus each place they appear in 49:1657(e)(1) and (2). The text of section 322(b) (1st sentence) of the revised title is substituted for 49:1344(d) (less words after semicolon) for clarity and because of the transfer of aviation functions to the Secretary of Transportation under 49:1655(c)(1). The text of 49:1657(e)(2) (words before 2d comma) is omitted as unnecessary because the authority of an officer to delegate is consolidated in the subsection. The words “the duties and powers of the officer” are substituted for “such functions, powers, and duties” in 49:1657(e)(2) for clarity and consistency. The words “the duties and powers specified in sections 103(c)(1), 104(c)(1), and 106(g)(1) of this title” are substituted for “any of the statutory duties and responsibilities specifically assigned to them by this chapter” in 49:1657(e)(3) for clarity. The words “may not be delegated to an officer or employee outside the Administration concerned” are substituted for “The Administrators established by section 1652(e) of this title . . . may not delegate . . . outside of their respective administrations” in 49:1657(e)(3) for clarity and because of the restatement of the section.

In subsection (c), before clause (1), the words “aviation duties and powers” are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. In clause (2), the words “those departments, agencies, and instrumentalities” are substituted for “such other agencies and instrumentalities” in 49:1343(i) for clarity and consistency. The words “aviation . . . Department” are substituted for “Administration” in 49:1343(i) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1).

In subsection (d), before clause (1), the words “aviation duties and powers” are substituted for “for the exercise and performance of the powers and duties vested in and imposed upon him by law” in 49:1344(a) because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. The words “at the seat of government and elsewhere as may be necessary” after “expenditures” and “and as from time to time may be appropriated for by Congress” are omitted as surplus. In clause (8), the words “passenger-carrying aircraft and automobiles” are substituted for “passenger-carrying automobiles and aircraft” in 49:1344(a) for clarity. The words “such . . . as is necessary in the exercise and performance of the powers and duties of the Secretary” after “aircraft” in 49:1344(a) are omitted as unnecessary because of the restatement of the section. The text of 49:1344(a) (proviso) is omitted as unnecessary.

In subsection (e), before clause (1), the words “or in support of” are omitted as surplus. In clause (1), the words “making the property” are substituted for “for manufacture” for clarity. In clause (2), the word “formal” is omitted as unnecessary. The word “unreasonably” is substituted for “unduly” for consistency.

REFERENCES IN TEXT

Section 103(c)(1) of this title, referred to in subsec. (b), was struck out by Pub. L. 110-432, div. A, title I, §101, Oct. 16, 2008, 122 Stat. 4851. Provisions similar to those contained in former subsec. (c)(1) of section 103 are now contained in subsec. (g)(1) of section 103.

AVAILABILITY OF RECEIPTS FROM FITNESS CENTERS FOR OPERATION AND MAINTENANCE OF FACILITIES

Pub. L. 106-69, title III, §329, Oct. 9, 1999, 113 Stat. 1021, provided that: “Hereafter, notwithstanding any other provision of law, receipts, in amounts determined by the Secretary, collected from users of fitness centers operated by or for the Department of Transportation shall be available to support the operation and maintenance of those facilities.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-277, div. A, §101(g) [title III, §332], Oct. 21, 1998, 112 Stat. 2681-439, 2681-471.

Pub. L. 105-66, title III, §332, Oct. 27, 1997, 111 Stat. 1447.

Pub. L. 104-205, title III, §344, Sept. 30, 1996, 110 Stat. 2976.

EXECUTIVE ORDER NO. 11382

Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, as amended by Ex. Ord. No. 11428, Sept. 5, 1968, 32 F.R. 12719, upon establishment of Department of Transportation amended and revoked certain executive orders relating to transportation, and, in addition to any other authority, authorized Secretary of Transportation and Federal Aviation Administrator to redelegate and authorize successive redelegations of any authority conferred in the order or the orders amended by it.

§ 323. Personnel

(a) The Secretary of Transportation may appoint and fix the pay of officers and employees of the Department of Transportation and may prescribe their duties and powers.

(b) The Secretary may procure services under section 3109 of title 5. However, an individual may be paid not more than \$100 a day for services.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2423.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
323(a) .....	49:1343(d).	Aug. 23, 1958, Pub. L. 85-726, §302(f), 72 Stat. 746; Oct. 4, 1961, Pub. L. 87-367, §205(b), 75 Stat. 791; Oct. 11, 1962, Pub. L. 87-793, §1001(h), 76 Stat. 864.
	49:1343(f).	Aug. 23, 1958, Pub. L. 85-726, §302(h), 72 Stat. 746; Oct. 4, 1961, Pub. L. 87-367, §205(a), 75 Stat. 791.
	49:1657(a).	Oct. 15, 1966, Pub. L. 89-670, §9(a), (b), 80 Stat. 944; Mar. 27, 1978, Pub. L. 95-251, §2(a)(12), 92 Stat. 183.
323(b) .....	49:1343(g) (1st sentence 33d-43d words).	Aug. 23, 1958, Pub. L. 85-726, §302(i) (1st sentence 31st-41st words), 72 Stat. 747.
	49:1657(b).	

In the section, the word “pay” is substituted for “compensation” for consistency with title 5.

In subsection (a), the words “In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or any other officer in the Department” before “the Secretary” and “subject to the civil service and classification laws” before “to select” in 49:1657(a) are omitted as unnecessary because of title 5, especially sections 3301, 5101, and 5331. The word “appoint” is substituted for “select, employ, appoint” because it is inclusive. The words “attorneys, and agents” after “employees” in 49:1343(d) and “including investigators, attorneys, and administrative law judges” after “employees” in 49:1657(a) are omitted as included in “officers and employees”. The words “of the Department of Transportation” are substituted for “as are necessary to carry out the provisions of this chapter” for consistency.

The text of 49:1343(d) (words after 1st comma) is omitted because of section 414(a)(1)(B) of the Civil Service Reform Act of 1978 (Pub. L. 95-454, 92 Stat. 1177). The text of 49:1343(f) is omitted because of section 414(a)(2)(A) of that Act.

In subsection (b), the word “procure” is substituted for “obtain” to conform to 5:3109. The words “unless otherwise specified in an appropriation Act” after “individuals” in 49:1657(b) are omitted as surplus.

POST-EMPLOYMENT POLICY STUDY

Pub. L. 112-141, div. C, title I, §31308(b), July 6, 2012, 126 Stat. 770, provided that:

“(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Department’s policies relating to post-employment restrictions on employees who perform functions related to transportation safety.

“(2) REPORT.—Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Inspector General shall submit a report containing the results of the study conducted under paragraph (1) to—

“(A) the Committee on Commerce, Science, and Transportation of the Senate;

“(B) the Committee on Energy and Commerce of the House of Representatives; and

“(C) the Secretary of Transportation.

“(3) USE OF RESULTS.—The Secretary of Transportation shall review the results of the study conducted under paragraph (1) and take whatever action the Secretary determines to be appropriate.”

§ 324. Members of the armed forces

(a) The Secretary of Transportation—

(1) to ensure that national defense interests are safeguarded properly and that the Secretary is advised properly about the needs and special problems of the armed forces, shall provide for participation of members of the armed forces in carrying out the duties and powers of the Secretary related to the regulation and protection of air traffic, including providing for, and research and development of, air navigation facilities, and the allocation of airspace; and

(2) may provide for participation of members of the armed forces in carrying out other duties and powers of the Secretary.

(b) A member of the Coast Guard on active duty may be appointed, detailed, or assigned to a position in the Department of Transportation, except the position of Secretary, Deputy Secretary, or Assistant Secretary for Administration. A retired member of the Coast Guard may be appointed, detailed, or assigned to a position in the Department.

(c) The Secretary of Transportation and the Secretary of a military department may make cooperative agreements, including agreements on reimbursement as may be considered appropriate by the Secretaries, under which a member of the armed forces may be appointed, detailed, or assigned to the Department of Transportation under this section. The Secretary of Transportation shall send a report each year to the appropriate committees of Congress on agreements made to carry out subsection (a)(2) of this section, including the number, rank, and position of each member appointed, detailed, or assigned under those agreements.

(d) The Secretary of a military department does not control the duties and powers of a member of the armed forces appointed, detailed, or assigned under this section when those duties and powers pertain to the Department of Transportation. A member of the armed forces appointed, detailed, or assigned under subsection (a)(2) of this section may not be charged against a statutory limitation on grades or strengths of the armed forces. The appointment, detail, or assignment and service of a member under this section to a position in the Department of Transportation does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from that status, office, rank, or grade.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2423.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
324(a)(1) .....	49:1343(a)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §302(c)(1), (2) (related to cooperative agreements), 72 Stat. 745.
324(a)(2) .....	49:1657(c) (1st sentence).	Oct. 15, 1966, Pub. L. 89-670, §9(c), (d), 80 Stat. 944.
324(b) .....	49:1657(p).	Oct. 15, 1966, Pub. L. 89-670, §9(p), 80 Stat. 947; Oct. 28, 1974, Pub. L. 93-496, §16(b), 88 Stat. 1533.
324(c) .....	49:1343(a)(1) (less 1st sentence).	
	49:1657(c) (less 1st sentence), (d)(2).	
324(d) .....	49:1343(a)(2) (related to cooperative agreements).	

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
	49:1657(d)(1).	

In the section, the words “members of the armed forces” are substituted for “military personnel”, “Members of the Army, the Navy, the Air Force, or the Marine Corps”, and “members of the armed services” for clarity and to conform to title 10.

In subsection (a)(2), the words “other duties and powers of the Secretary” are substituted for “the functions of the Department” for clarity and consistency.

In subsection (b), the words “Notwithstanding any provision of this chapter or other law” before “a member” and “Subject to the provisions of title 5” before “a retired” are omitted as unnecessary.

In subsection (c), the words “The Secretary of Transportation and the Secretary of a military department may make cooperative agreements under which” are substituted for “by the appropriate Secretary, pursuant to cooperative agreements with the Secretary of Transportation” in 49:1343(a)(1) and 49:1657(c) for clarity. The words “or the Coast Guard” before “may be detailed” in 49:1343(a)(1) (2d sentence) are omitted because of the transfer of the Coast Guard to the Secretary under 49:1655(b) and the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words “may be appointed, detailed, or assigned” are substituted for “may be detailed” for clarity and consistency in 49:1343(a)(1) and 49:1657(c). The words “to the Department of Transportation” are substituted for “for service in the Administration to effect such participation” in 49:1343(a)(1) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1) and to eliminate unnecessary words. The words “in writing” after “annually” in 49:1657(d)(2) are omitted as unnecessary. The words “each member appointed, detailed, or assigned” are substituted for “personnel appointed” and “members of the armed services detailed” in 49:1657(d)(2) for clarity and consistency.

In subsection (d), the words “The Secretary of a military department” are substituted for “his armed force or any officer thereof” in 49:1657(d)(1) and “the department from which detailed or appointed or by any agency or officer thereof” in 49:1343(a)(2) for clarity and consistency. The words “directly or indirectly” before “with respect to” are omitted as surplus. The words “the duties and powers of . . . when those duties and powers pertain to the Department of Transportation” are substituted for “with respect to his responsibilities under this chapter or within the Administration” in 49:1343(a)(2) and “with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned” in 49:1657(d)(1) for consistency and because of the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words “does not control” are substituted for “No . . . shall be subject to direction or control by” in 49:1343(a)(2) and “shall not be subject to direction by or control by” 49:1657(d)(1) for clarity. The words “the acceptance of” before “and service” and “any appointive or other” before “position” in 49:1657(d)(1) are omitted as unnecessary. The words “a member” are added because of the restatement of the section. The words “that member” are substituted for “commissioned officers or enlisted men” in 49:1343(a)(2) and “officers and enlisted men” in 49:1657(d)(1) because of the restatement of the section and to eliminate unnecessary words. The word “held” is substituted for “may occupy or hold” to eliminate unnecessary words. The words “right or benefit” are substituted for “emolument, perquisite, right, privilege, or benefit” to eliminate unnecessary words. The words “incident to or” before “arising” are omitted as surplus.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in

House Document No. 103-7 (in which a report required under subsec. (c) of this section is listed as the 5th item on page 132), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 325. Advisory committees

(a) Without regard to the provisions of title 5 governing appointment in the competitive service, the Secretary of Transportation may appoint advisory committees to consult with and advise the Secretary in carrying out the duties and powers of the Secretary.

(b) While attending a committee meeting or otherwise serving at the request of the Secretary, a member of an advisory committee may be paid not more than \$100 a day. A member is entitled to reimbursement for expenses under section 5703 of title 5. This subsection does not apply to individuals regularly employed by the United States Government.

(c) A member of an advisory committee advising the Secretary in carrying out aviation duties and powers may serve for not more than 100 days in a calendar year.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2424.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
325(a) .....	49:1343(g) (1st sentence 1st-32d words).  49:1657(o) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §302(i) (less 1st sentence 31st-41st words), 72 Stat. 747.  Oct. 15, 1966, Pub. L. 89-670, §9(o), 80 Stat. 947.
325(b) .....	49:1343(g) (1st sentence 44th-53d words, last sentence). 49:1657(o) (last sentence).	
325(c) .....	49:1343(g) (1st sentence 54th-last words).	

In subsection (a), the words “provisions of title 5 governing appointment in the competitive service” are substituted for “civil service laws” in 49:1657(o) for clarity and consistency. The words “as shall be appropriate for the purpose of” before “consultation” in 49:1657(o) are omitted as surplus. The words “the Secretary in carrying out the duties and powers of the Secretary” are substituted for “the Department in performance of its functions” in 49:1657(o) and “the Administration in performance of its functions hereunder” in 49:1343(g) for clarity and consistency because the duties and powers are vested in the Secretary of Transportation.

In subsection (b), the word “compensation” after “may be paid” in 49:1657(o) is omitted as surplus. The words “not more than \$100 a day” are substituted for “at rates not exceeding those authorized for individuals under subsection (b) of this section” in 49:1657(o) for clarity because that is the rate under 49:1657(b). The words “A member is entitled to reimbursement for expenses under section 5703 of title 5” are substituted for 49:1343(g) (last sentence) and 49:1657(o) (last sentence words after 4th comma) for clarity.

In subsection (c), the words “A member of an advisory committee advising the Secretary” are substituted for “in the case of any individual” in 49:1343(g) for clarity. The words “may serve” are added for clarity and because of the restatement of the section. The words “in carrying out aviation duties and powers” are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 326. Gifts

(a) The Secretary of Transportation may accept and use conditional or unconditional gifts of property for the Department of Transportation. The Secretary may accept a gift of services in carrying out aviation duties and powers. Property accepted under this section and proceeds from that property must be used, as nearly as possible, under the terms of the gift.

(b) The Department has a fund in the Treasury. Disbursements from the fund are made on order of the Secretary. The fund consists of—

- (1) gifts of money;
- (2) income from property accepted under this section and proceeds from the sale of that property; and
- (3) income from securities under subsection (c) of this section.

(c) On request of the Secretary of Transportation, the Secretary of the Treasury may invest and reinvest amounts in the fund in securities of, or in securities whose principal and interest is guaranteed by, the United States Government.

(d) Property accepted under this section is a gift to or for the use of the Government under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2424; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
326(a) .....	49:1344(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §303(c)(1), 72 Stat. 748.
326(b) .....	49:1657(m)(1) (1st, 3d sentences), (2) (1st sentence), (3) (less 1st sentence).	Oct. 15, 1966, Pub. L. 89-670, §9(m), 80 Stat. 946.
326(c) .....	49:1657(m)(3) (1st sentence).	
326(d) .....	49:1657(m)(2).	

In the section, the word “gifts” is substituted for “gifts and bequests” in 49:1657(m)(1) because it is inclusive.

In subsection (a), the words “accept and use” are substituted for “accept, hold, administer, and utilize”, and the words “for the Department” are substituted for “for the purpose of aiding or facilitating the work of the Department” in 49:1657(m)(1), to eliminate unneces-

sary words. The word “property” is substituted for “property, both real and personal” in 49:1657(m)(1), and “gift or donation of money or other property, real and personal” in 49:1344(c)(1) to eliminate unnecessary words. The words “aviation duties and powers” are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. The words “under this section and proceeds from that property” are substituted for “pursuant to this paragraph, and the proceeds thereof” in 49:1657(m)(1) for clarity.

In subsection (b), the words “The Department has a” and “The fund consists of” are added for clarity and because of the restatement of the section. The word “separate” before “fund” is omitted as unnecessary and for consistency. The words “from the fund” are added for clarity. The words “accepted under this section” are substituted for “held by the Secretary pursuant to paragraph (1)” for clarity. The words “that property” are substituted for “other property received as gifts or bequests” to eliminate unnecessary words. The words “from securities under subsection (c) of this section” are substituted for “accruing from such securities” for clarity.

In subsection (c), the words “amounts in the fund” are substituted for “any moneys contained in the fund provided for in paragraph (1)” for clarity and consistency.

In subsection (d), the words “under this section” are substituted for “under paragraph (1)” because of the restatement of the section. The words “the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)” are substituted for “For the purpose of Federal income, estate, and gift taxes” for consistency.

AMENDMENTS

1986—Subsec. (d). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

§ 327. Administrative working capital fund

(a) The Department of Transportation has an administrative working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services the Secretary of Transportation decides are desirable for the efficiency and economy of the Department. The services may include—

- (1) a central supply service for stationery and other supplies and equipment through which adequate stocks may be maintained to meet the requirements of the Department;
- (2) central messenger, mail, telephone, and other communications services;
- (3) office space;
- (4) central services for document reproduction, and for graphics and visual aids; and
- (5) a central library service.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

- (c) The fund consists of—
  - (1) amounts appropriated to the fund;
  - (2) the reasonable value of stocks of supplies, equipment, and other assets and inventories on order that the Secretary transfers to the fund, less the related liabilities and unpaid obligations;
  - (3) amounts received from the sale or exchange of property; and
  - (4) payments received for loss or damage to property of the fund.

(d) The fund shall be reimbursed, in advance, from amounts available to the Department or

from other sources, for supplies and services at rates that will approximate the expenses of operation, including the accrual of annual leave and the depreciation of equipment. Amounts in the fund, in excess of amounts transferred or appropriated to maintain the fund, shall be deposited in the Treasury as miscellaneous receipts. All assets, liabilities, and prior losses are considered in determining the amount of the excess. (Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2425.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
327(a) .....	49:1657(j) (1st sentence less 11th-17th words).	Oct. 15, 1966, Pub. L. 89-670, §9(j), 80 Stat. 945.
327(b) .....	49:1657(j) (1st sentence 11th-17th words, 2d sentence, 18th-22d words).	
327(c) .....	49:1657(j) (2d sentence less 18th-22d words, 4th sentence).	
327(d) .....	49:1657(j) (less 1st, 2d, 4th sentences).	

In subsection (a), the words "Department of Transportation has" are substituted for "Secretary is authorized to establish" because the working capital fund has been established. The words "administrative" before "working" and "Amounts in the fund are available" are added for clarity. The words "the Secretary of Transportation decides are" are substituted for "as he shall find to be" for clarity. The words "desirable for the economy" are substituted for "desirable in the interest of economy" to eliminate unnecessary words. The words "such services as" before "a central supply service" and "in whole or in part" before "the requirements of the Department" are omitted as surplus. The words "the requirements of the Department" are substituted for "the requirements of the Department and its agencies" because they are inclusive.

In subsection (b), the words "Amounts in the fund" are added for clarity. The words "Amounts may be appropriated to the fund" are substituted for "(which appropriations are hereby authorized)" for clarity.

In subsection (c), the words "The fund consists of" are substituted for "The capital of the fund shall consist of" and "The fund shall also be credited with" for clarity. The word "reasonable" is substituted for "fair and reasonable" because it is inclusive. The words "amounts appropriated to the fund" are substituted for "of any appropriations made for the purpose of providing capital" for clarity. The words "amounts received from the sale" are substituted for "receipts from the sale", and the words "payments received for loss" are substituted for "receipts in payment for", as being more precise.

In subsection (d), the words "agencies and offices in" after "available funds of" are omitted because they are included in "Department". The words "Amounts in the fund, in excess of amounts" are added for clarity. The words "any surplus found in the fund . . . above the" after "miscellaneous receipts" are omitted because of the restatement of this section. The words "to establish and" before "maintain" are omitted because the working capital fund has been established. The words "deposited in the Treasury" are substituted for "covered into the United States Treasury" for consistency. The words "are . . . in determining the amount of the excess" are added for clarity.

**§ 328. Transportation Systems Center working capital fund**

(a) The Department of Transportation has a Transportation Systems Center working capital fund. Amounts in the fund are available for fi-

nancing the activities of the Center, including research, development, testing, evaluation, analysis, and related activities the Secretary of Transportation approves, for the Department, other agencies, State and local governments, other public authorities, private organizations, and foreign countries.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

(c) The capital of the fund consists of—

(1) amounts appropriated to the fund;

(2) net assets of the Center as of October 1, 1980, including unexpended advances made to the Center for which valid obligations were incurred before October 1, 1980;

(3) the reasonable value of property and other assets transferred to the fund after September 30, 1980, less the related liabilities and unpaid obligations; and

(4) the reasonable value of property and other assets donated to the fund.

(d) The fund shall be reimbursed or credited with—

(1) advance payments from applicable funds or appropriations of the Department and other agencies, and with advance payments from other sources, the Secretary authorizes, for—

(A) services at rates that will recover the expenses of operation, including the accrual of annual leave and overhead; and

(B) acquiring property and equipment under regulations the Secretary prescribes; and

(2) receipts from the sale or exchange of property or in payment for loss or damage of property held by the fund.

(e) The Secretary shall deposit at the end of each fiscal year, in the Treasury as miscellaneous receipts, amounts accruing in the fund that the Secretary decides are in excess of the needs of the fund.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2425.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
328(a) .....	49:1657(r)(1) (1st sentence, 2d sentence words before last comma, last sentence).	Oct. 15, 1966, Pub. L. 89-670, 80 Stat. 931, §9(r); added May 30, 1980, Pub. L. 96-254, §207, 94 Stat. 413.
328(b) .....	49:1657(r)(1) (2d sentence words after last comma), (2)(B) (words after last comma).	
328(c) .....	49:1657(r)(2)(A), (B) (words before last comma), (C).	
328(d) .....	49:1657(r)(3).	
328(e) .....	49:1657(r)(4).	

In subsection (a), the words "Department of Transportation has" are substituted for "Secretary is authorized to establish" because the working capital fund has been established. The text of 49:1657(r)(1) (2d sentence words before last comma) are omitted as executed. The words "The Transportation Systems Center is authorized to perform" are omitted as unnecessary because of the restatement. The word "approves" is substituted for "direct . . . and, when approved by the Secretary" to eliminate unnecessary words. The words "or his designee" are omitted because of section 322(b) of the revised title.

In subsection (c)(3) and (4), the words “fair and” are omitted as surplus.

In subsection (c)(3), the words “by the Department and other agencies of the Government” are omitted as surplus.

In subsection (c)(4), the words “from other sources” are omitted as surplus.

In subsection (d)(1), before clause (A), the words “or his designee” are omitted because of section 322(b) of the revised title.

In subsection (e), the words “The Secretary shall deposit” are substituted for “there shall be transferred” for clarity and consistency. The words “in the fund” are added for clarity.

### § 329. Transportation information

(a) The Secretary of Transportation may collect and collate transportation information the Secretary decides will contribute to the improvement of the transportation system of the United States. To the greatest practical extent, the Secretary shall use information available from departments, agencies, and instrumentalities of the United States Government and other sources. To the extent practical, the Secretary shall make available to other Government departments, agencies, and instrumentalities and to the public the information collected under this subsection.

(b) The Secretary shall—

(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under chapter 11 of this title) including, at a minimum, information on (A) the origin and destination of passengers in interstate air transportation (as that term is used in part A of subtitle VII of this title), and (B) the number of passengers traveling by air between any two points in interstate air transportation; except that in no case shall the Secretary require an air carrier to provide information on the number of passengers or the amount of cargo on a specific flight if the flight and the flight number under which such flight operates are used solely for interstate air transportation and are not used for providing essential air transportation under subchapter II of chapter 417 of this title;

(2) study the possibilities of developing air commerce and the aeronautical industry; and

(3) exchange information on civil aeronautics with governments of foreign countries through appropriate departments, agencies, and instrumentalities of the Government.

(c)(1) On the written request of a person, a State, territory, or possession of the United States, or a political subdivision of a State, territory, or possession, the Secretary may—

(A) make special statistical studies on foreign and domestic transportation;

(B) make special studies on other matters related to duties and powers of the Secretary;

(C) prepare, from records of the Department of Transportation, special statistical compilations; and

(D) provide transcripts of studies, tables, and other records of the Department.

(2) The person or governmental authority requesting information under paragraph (1) of this subsection must pay the actual cost of preparing

the information. Payments shall be deposited in the Treasury in an account that the Secretary shall administer. The Secretary may use amounts in the account for the ordinary expenses incidental to getting and providing the information.

(d) To assist in carrying out duties and powers under part A of subtitle VII of this title, the Secretary of Transportation shall maintain separate cooperative agreements with the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration for the timely exchange of information on their programs, policies, and requirements directly related to carrying out that part.

(e) INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.—

(1) PUBLICATION OF DATA.—The Secretary of Transportation shall publish data on incidents and complaints involving passenger and baggage security screening in a manner comparable to other consumer complaint and incident data.

(2) MONTHLY REPORTS FROM SECRETARY OF HOMELAND SECURITY.—To assist in the publication of data under paragraph (1), the Secretary of Transportation may request the Secretary of Homeland Security to periodically report on the number of complaints about security screening received by the Secretary of Homeland Security.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2426; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 98-443, §5(a), Oct. 4, 1984, 98 Stat. 1705; Pub. L. 103-272, §4(j)(7), July 5, 1994, 108 Stat. 1366; Pub. L. 104-287, §5(3), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 108-176, title IV, §421, title VIII, §805(a), Dec. 12, 2003, 117 Stat. 2551, 2587.)

#### AMENDMENT OF SUBSECTION (b)(1)

*Pub. L. 108-176, title VIII, §805, Dec. 12, 2003, 117 Stat. 2588, provided that, effective on the date of the issuance of a final rule to modernize the Origin and Destination Survey of Airline Passenger Traffic, pursuant to the Advance Notice of Proposed Rulemaking published July 15, 1998 (Regulation Identifier Number 2105-AC71), that reduces the reporting burden for air carriers through electronic filing of the survey data collected under subsection (b)(1) of this section, subsection (b)(1) of this section is amended by striking “except that in no case” and all that follows through the semicolon at the end and inserting the following: “except that, if the Secretary requires air carriers to provide flight-specific information, the Secretary—*

*“(A) shall not disseminate fare information for a specific flight to the general public for a period of at least 9 months following the date of the flight; and*

*“(B) shall give due consideration to and address confidentiality concerns of carriers, including competitive implications, in any rulemaking prior to adoption of a rule requiring the dissemination to the general public of any flight-specific fare;”.*

HISTORICAL AND REVISION NOTES  
PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
329(a) .....	49:1634. 49:1655(a)(2)(A) (related to 49:1634).	Sept. 30, 1965, Pub. L. 89-220, § 4, 79 Stat. 893. Oct. 15, 1966, Pub. L. 89-670, §§6(a)(2)(A) (related to § 4 of the Act of Sept. 30, 1965), 9(n), 80 Stat. 937, 946. Aug. 23, 1958, Pub. L. 85-726, §311, 72 Stat. 751.
329(b) .....	49:1352.	
329(c)(1) .....	49:1657(n)(1) (less last 17 words).	
329(c)(2) .....	49:1657(n)(1) (last 17 words), (2).	
329(d) .....	49:1343(b).	Aug. 23, 1958, Pub. L. 85-726, §302(d), 72 Stat. 746.

In subsection (a), the word “information” is substituted for “data, statistics, and other information” in 49:1634 to eliminate unnecessary words. The words “transportation system of the United States” are substituted for “national transportation system” in 49:1634 for clarity and consistency. The words “in carrying out this activity” before “the Secretary shall” in 49:1634 are omitted as surplus. The words “departments, agencies, and instrumentalities of the United States Government” are substituted for “Federal agencies” in 49:1634 for clarity and consistency. The words “To the greatest extent practical” are substituted for “insofar as practicable” in 49:1634 for consistency. The words “The Secretary shall” are added for clarity.

In subsection (b), the words “by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.) or the Civil Aeronautics Board under title IV of that Act (49 U.S.C. 1371 et seq.)” are substituted for “the Board under subchapter IV and VII of this chapter” in 49:1352 because 49:1655(d) (1st sentence) transferred duties of the Civil Aeronautics Board under 49:ch. 20, subch. VII to the Secretary of Transportation to be carried out through the National Transportation Safety Board. The reference to the National Transportation Safety Board is to the independent Board established by section 303(a) of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2167) outside the Department of Transportation and not to the prior Board that was a part of the Department. The words “departments, agencies, and instrumentalities of the Government” are substituted for “government channels” in 49:1352 for clarity and consistency.

In subsection (c)(1), the words “of the United States” are added for clarity and consistency. The words “of a State, territory, or possession” are substituted for “thereof” after “subdivision” for clarity. The words “related to the duties and powers of the Secretary” are substituted for “falling within the province of the Department” for clarity and consistency.

In subsection (c)(2), the words “governmental authority requesting information under paragraph (1) of this subsection” are substituted for “body requesting it” for clarity and consistency. The word “separate” before “account” is omitted as unnecessary and for consistency. The words “must pay” are substituted for “upon the payment” after “other records” for clarity. The words “preparing the information” are substituted for “such work” after “actual cost of” for clarity. The word “payments” is substituted for “All moneys received by the Department in payment of the cost of work under paragraph (1)” to eliminate unnecessary words. The words “in the Treasury” are added for clarity and consistency. The words “The Secretary may use amounts in the account” are substituted for “These moneys may be used, in the discretion of the Secretary” for clarity and to eliminate unnecessary words. The words “to getting and providing the information” are substituted for “to the work and/or to secure in connection therewith the special services of persons who are neither officers nor employees of the United States” for clarity and to eliminate unnecessary words.

In subsection (d), the words “in carrying out duties and powers under the Federal Aviation Act of 1958 (49

U.S.C. 1301 et seq.)” are substituted for “in discharge of responsibilities under this chapter” in 49:1343(b) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1) and for consistency. The words “directly related to carrying out that part” are substituted for “directly relating to such responsibilities” in 49:1343(b) because of the restatement of the source provisions.

PUB. L. 103-272

Section 4(j)(7) amends 49:329 to omit references to overseas air transportation because there no longer is a distinction between interstate air transportation and overseas air transportation.

PUB. L. 104-287

This amends 49:329 to make conforming amendments necessary because of the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 745).

AMENDMENTS

2003—Subsec. (e). Pub. L. 108-176, § 421, added subsec. (e).

1996—Subsec. (b)(1). Pub. L. 104-287, § 5(3)(A), substituted “(as that term is used in part A of subtitle VII of this title)” for “(as those terms are used in such Act)”.

Subsec. (d). Pub. L. 104-287, § 5(3)(B), substituted “that part” for “that Act”.

1994—Subsec. (b)(1). Pub. L. 103-272, § 4(j)(7)(A), substituted “chapter 11 of this title” for “title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.)”, “in interstate air transportation” for “in interstate and overseas air transportation” in two places, “for interstate air transportation” for “for interstate or overseas air transportation”, and “subchapter II of chapter 417 of this title” for “section 419 of the Federal Aviation Act of 1958”.

Subsec. (d). Pub. L. 103-272, § 4(j)(7)(B), substituted “part A of subtitle VII of this title” for “the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)”.

1984—Subsec. (b)(1). Pub. L. 98-443 struck out reference to information collected and disseminated by the Civil Aeronautics Board under section 1371 et seq. of this title, and added cls. (A) and (B).

Pub. L. 98-216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

Subsec. (d). Pub. L. 98-216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 421 of Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

Pub. L. 108-176, title VIII, § 805(b), Dec. 12, 2003, 117 Stat. 2588, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the issuance of a final rule to modernize the Origin and Destination Survey of Airline Passenger Traffic, pursuant to the Advance Notice of Proposed Rulemaking published July 15, 1998 (Regulation Identifier Number 2105-AC71), that reduces the reporting burden for air carriers through electronic filing of the survey data collected under section 329(b)(1) of title 49, United States Code.”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-443, § 5(b), Oct. 4, 1984, 98 Stat. 1705, provided that: “The amendment made by this section [amending this section] shall take effect on January 1, 1985.”

§ 330. Research contracts

(a) The Secretary of Transportation may make contracts with educational institutions,

public and private agencies and organizations, and persons for scientific or technological research into a problem related to programs carried out by the Secretary. Before making a contract, the Secretary must require the institution, agency, organization, or person to show that it is able to carry out the contract.

(b) In carrying out this section, the Secretary shall—

(1) give advice and assistance the Secretary believes will best carry out the duties and powers of the Secretary;

(2) participate in coordinating all research started under this section;

(3) indicate the lines of inquiry most important to the Secretary; and

(4) encourage and assist in establishing and maintaining cooperation by and between contractors and between them and other research organizations, the Department of Transportation, and other departments, agencies, and instrumentalities of the United States Government.

(c) The Secretary may distribute publications containing information the Secretary considers relevant to research carried out under this section.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2427.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
330(a) .....	49:1657(q)(1).	Oct. 15, 1966, Pub. L. 89-670, §9(q)(1)-(3), 80 Stat. 947.
330(b) .....	49:1657(q)(2) (1st sentence).	
330(b) .....	49:1657(q)(2) (less 1st sentence).	
330(c) .....	49:1657(q)(3).	

In subsection (a), the words “may make contracts” are substituted for “is authorized to enter into contracts” to eliminate unnecessary words. The words “the conduct of” before “scientific” are omitted as surplus. The words “a problem” are substituted for “any aspect of the problems” because of the style of the revised title. The words “carried out by the Secretary” are substituted for “of the Department which are authorized by statute” because the Secretary of Transportation is vested with all duties and powers. The words “Before making a contract” are substituted for “with which he expects to enter into contracts pursuant to this subsection” for clarity and to eliminate unnecessary words. The words “is able to carry out the contract” are substituted for “have the capability of doing effective work” for clarity.

In subsection (b), before clause (1), the words “In carrying out this section” are added for clarity. In clause (1), the word “give” is substituted for “furnish” before “such advice” for consistency. The words “duties and powers of the Secretary” are substituted for “mission of the Department” for clarity and consistency. In clause (4), the word “contractors” is substituted for “the institutions, agencies, organizations, or persons” to eliminate unnecessary words. The words “departments, agencies, and instrumentalities of the United States Government” are substituted for “Federal agencies” for clarity and consistency.

In subsection (c), the words “considers relevant” are substituted for “as he deems pertinent” as more precise. The words “from time to time” before “disseminate” and “in the form of reports or . . . to public or private agencies or organizations, or individuals” before “such information” are omitted as unnecessary.

CONFLICTS OF INTEREST

Pub. L. 106-159, title I, §101(g), Dec. 9, 1999, 113 Stat. 1752, provided that:

“(1) COMPLIANCE WITH REGULATION.—In awarding any contract for research, the Secretary shall comply with section 1252.209-70 of title 48, Code of Federal Regulations, as in effect on the date of the enactment of this section [Dec. 9, 1999]. The Secretary shall require that the text of such section be included in any request for proposal and contract for research made by the Secretary.

“(2) STUDY.—

“(A) IN GENERAL.—The Secretary shall conduct a study to determine whether or not compliance with the section referred to in paragraph (1) is sufficient to avoid conflicts of interest in contracts for research awarded by the Secretary and to evaluate whether or not compliance with such section unreasonably delays or burdens the awarding of such contracts.

“(B) CONSULTATION.—In conducting the study under this paragraph, the Secretary shall consult, as appropriate, with the Inspector General of the Department of Transportation, the Comptroller General, the heads of other Federal agencies, research organizations, industry representatives, employee organizations, safety organizations, and other entities.

“(C) REPORT.—Not later than 18 months after the date of the enactment of this Act [Dec. 9, 1999], the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study conducted under this paragraph.”

§ 331. Service, supplies, and facilities at remote places

(a) When necessary and not otherwise available, the Secretary of Transportation may provide for, construct, or maintain the following for officers and employees of the Department of Transportation and their dependents stationed in remote places:

- (1) emergency medical services and supplies.
- (2) food and other subsistence supplies.
- (3) messing facilities.
- (4) motion picture equipment and film for recreation and training.
- (5) living and working quarters and facilities.
- (6) reimbursement for food, clothing, medicine, and other supplies provided by an officer or employee in an emergency for the temporary relief of individuals in distress.

(b) The Secretary shall prescribe reasonable charges for medical treatment provided under subsection (a)(1) of this section and for supplies and services provided under subsection (a)(2) and (3) of this section. Amounts received under this subsection shall be credited to the appropriation from which the expenditure was made.

(c) When appropriations for a fiscal year for aviation duties and powers have not been made before June 1 immediately before the beginning of the fiscal year, the Secretary may designate an officer, and authorize that officer, to incur obligations to buy and transport supplies to carry out those duties and powers at installations outside the 48 contiguous States and the District of Columbia. The amount obligated under this subsection in a fiscal year may be not more than 75 percent of the amount available for buying and transporting supplies to those installations for the then current fiscal year. Payment of obligations under this subsection shall be made from appropriations for the next fiscal year when available.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2427; Pub. L. 103-272, §4(j)(8), July 5, 1994, 108 Stat. 1367.)

HISTORICAL AND REVISION NOTES  
PUB. L. 97-449

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
331(a) .....	49:1657(l) (less last sentence).	Oct. 15, 1966, Pub. L. 89-670, §9(l), 80 Stat. 946.
331(b) .....	49:1657(l) (last sentence).	
331(c) .....	49:1344(b).	Aug. 23, 1958, Pub. L. 85-726, §303(b), 72 Stat. 748.

In subsection (a), the text of 49:1657(l) (words before 3d comma) is omitted as unnecessary. The words “of the Department of Transportation” are added for clarity. In clause (6), the words “individuals in distress” are substituted for “distressed persons” as being more precise.

In subsection (b), the words “The Secretary shall prescribe reasonable charges” are substituted for “shall be at prices reflecting reasonable value as determined by the Secretary” for clarity and to eliminate surplus words. The words “services, supplies, and facilities provided under subsection (a)(1), (2), and (3) of this section” are substituted for “The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection” to eliminate surplus words. The words “Amounts received under this subsection” are substituted for “and the proceeds therefrom” for clarity.

In subsection (c), the words “aviation duties and powers” are substituted for “the Administration” in 49:1344(b) because of the transfer of aviation functions to the Secretary of Transportation under 49:1655(c)(1). The words “before June 1” are substituted for “prior to the first day of March” in 49:1344(b) to conform to the change in the start of the fiscal year from July 1 to October 1 under 31:1020(a)(2). The words “and materials necessary” after “supplies” in 49:1344(b) are omitted as surplus. The words “to carry out those duties and powers” are substituted for “necessary to the proper execution of the Secretary of Transportation’s functions” in 49:1344(b) for clarity and consistency. The words “the 48 contiguous States and the District of Columbia” are substituted for “the continental United States” in 49:1344(b) for clarity. The words “including those in Alaska” before “in amounts” in 49:1344(b) are omitted as unnecessary because of the restatement of the section. The words “The amount obligated under this subsection in a fiscal year” in 49:1344(b) are added for clarity. The words “available for buying and transporting supplies to those installations” are substituted for “made available for such purposes” in 49:1344(b) for clarity. The word “succeeding” after “next” in 49:1344(b) is omitted as surplus.

PUB. L. 103-272

Section 4(j)(8) amends 49:331(b) to follow more closely the language in former 49:1657(l) on which it was based.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-272 substituted “medical treatment provided under subsection (a)(1) of this section and for supplies and services provided under subsection (a)(2) and (3) of this section” for “services, supplies, and facilities provided under subsection (a)(1), (2), and (3) of this section”.

§ 332. Minority Resource Center

(a) In this section, “minority” includes women.

(b) The Department of Transportation has a Minority Resource Center. The Center may—

(1) include a national information clearinghouse for minority entrepreneurs and busi-

nesses to disseminate information to them on business opportunities related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the railroads of the United States;

(2) carry out market research, planning, economic and business analyses, and feasibility studies to identify those business opportunities;

(3) assist minority entrepreneurs and businesses in obtaining investment capital and debt financing;

(4) design and carry out programs to encourage, promote, and assist minority entrepreneurs and businesses in getting contracts, subcontracts, and projects related to those business opportunities;

(5) develop support mechanisms (including venture capital, surety and bonding organizations, and management and technical services) that will enable minority entrepreneurs and businesses to take advantage of those business opportunities;

(6) participate in, and cooperate with, United States Government programs and other programs designed to provide financial, management, and other forms of support and assistance to minority entrepreneurs and businesses; and

(7) make arrangements to carry out this section.

(c) The Center has an advisory committee of 5 individuals appointed by the Secretary of Transportation. The Secretary shall make the appointments from lists of qualified individuals recommended by minority-dominated trade associations in the minority business community. Each of those trade associations may submit a list of not more than 3 qualified individuals.

(d) The United States Railway Association, the Consolidated Rail Corporation, and the Secretary shall provide the Center with relevant information (including procurement schedules, bids, and specifications on particular maintenance, rehabilitation, restructuring, improvement, and revitalization projects) the Center requests in carrying out this section.

(e) BONDING ASSISTANCE.—

(1) IN GENERAL.—The Secretary, acting through the Minority Resource Center established under subsection (b), shall provide assistance in obtaining bid, payment, and performance bonds by disadvantaged business enterprises pursuant to subsection (b)(4).

(2) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2005 through 2009 to carry out activities under this subsection.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2428; Pub. L. 109-59, title I, §1951, Aug. 10, 2005, 119 Stat. 1514.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
332(a) .....	49:1657a(e).	Oct. 15, 1966, Pub. L. 89-670, 80 Stat. 931, §11; added Feb. 5, 1976, Pub. L. 94-210, §906(2), 90 Stat. 149.
332(b) .....	49:1657a(a), (c).	

## HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
332(c) .....	49:1657a(b).	
332(d) .....	49:1657a(d).	

In subsection (b), before clause (1), the word “has” is substituted for “The Secretary shall, within 180 days after February 5, 1976, establish” because the time for establishing the Center has expired and the Center has been established. The words “The Department of Transportation” are added because of the restatement of the section. The words “(hereafter in this section referred to as the ‘Center’)” after “Minority Resource Center” are omitted because of the style of the revised title.

In subsection (b)(1), the word “include” is substituted for “establish and maintain”, and the words “to disseminate information” are substituted for “and disseminate information from”, for clarity. The words “to them . . . related to” are substituted for “to such entrepreneurs and businesses . . . with respect to” to omit unnecessary words. The words “for purposes of furnishing . . . information” before “with respect to” are omitted as surplus.

In subsection (b)(2), the words “those business opportunities” are substituted for “such opportunities” after “identify” for clarity.

In subsection (b)(4), the words “those business opportunities” are substituted for “the maintenance, rehabilitation, restructuring, improvement, and revitalization of the Nation’s railroads” to eliminate surplus words.

In subsection (b)(5), the words “related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the nation’s railroads” are omitted as unnecessary because of the restatement.

In subsection (b)(7), the words “make arrangements” are substituted for “enter into such contracts, cooperative agreements, or other transactions” to eliminate unnecessary words. The words “as may be necessary” after “transactions” are omitted as surplus. The words “to carry out this section” are substituted for “in the conduct of its functions and duties” for clarity and consistency.

In subsection (c), the words “The Secretary shall make the appointments” and the words “Each of those trade associations may submit a list of not more than” are added for clarity and because of the restatement of the section.

In subsection (d), the words “in carrying out this section” are substituted for “in connection with the performance of its functions” for clarity and consistency.

## AMENDMENTS

2005—Subsec. (e). Pub. L. 109–59 added subsec. (e).

## ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

The United States Railway Association abolished effective Apr. 1, 1987, all powers, duties, rights, and obligations of Association relating to Consolidated Rail Corporation under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) transferred to Secretary of Transportation on Jan. 1, 1987, and any securities of Corporation held by Association transferred to Secretary of Transportation on Oct. 21, 1986, see section 1341 of Title 45, Railroads.

**§ 333. Responsibility for rail transportation unification and coordination projects**

(a) The Secretary of Transportation may develop and make available to interested persons any plans, proposals, and recommendations for mergers, consolidations, reorganizations, and other unification or coordination projects for rail transportation (including arrangements for joint use of tracks and other facilities and ac-

quisition or sale of assets) that the Secretary believes will result in a rail system that is more efficient and consistent with the public interest.

(b) To achieve a more efficient, economical, and viable rail system in the private sector, the Secretary, when requested by a rail carrier and under this section, may assist in planning, negotiating, and carrying out a unification or coordination of operations and facilities of at least 2 rail carriers.

(c)(1) The Secretary may conduct studies to determine the potential cost savings and possible improvements in the quality of rail transportation that are likely to result from unification or coordination of at least 2 rail carriers, through—

(A) elimination of duplicating or overlapping operations and facilities;

(B) reducing switching operations;

(C) using the shortest or more efficient and economical routes;

(D) exchanging trackage rights;

(E) combining trackage and terminal or other facilities;

(F) upgrading tracks and other facilities used by at least 2 rail carriers;

(G) reducing administrative and other expenses; and

(H) other measures likely to reduce costs and improve rail transportation.

(2) When the Secretary requests information for a study under this section, a rail carrier shall provide the information requested. In carrying out this section, the Secretary may designate an officer or employee to get from a rail carrier information on the kind, quality, origin, destination, consignor, consignee, and routing of property. This information may be obtained without the consent of the consignor or consignee notwithstanding section 11904 of this title. When appropriate, the designated officer or employee has the powers described in section 203(c) of the Regional Rail Reorganization Act of 1973 to carry out this section, but a subpoena must be issued under the signature of the Secretary.

(d)(1) When requested by a rail carrier, the Secretary may hold conferences on and mediate disputes resulting from a proposed unification or coordination project. The Secretary may invite to a conference—

(A) officers and directors of an affected rail carrier;

(B) representatives of rail carrier employees who may be affected;

(C) representatives of the Surface Transportation Board;

(D) State and local government officials, shippers, and consumer representatives; and

(E) representatives of the Federal Trade Commission and the Attorney General.

(2) A person attending or represented at a conference on a proposed unification or coordination project is not liable under the antitrust laws of the United States for any discussion at the conference and for any agreements reached at the conference, that are entered into with the approval of the Secretary to achieve or determine a plan of action to carry out the unification or coordination project.

(e) When the approval of a proposal submitted by a rail carrier for a merger or other action is subject to the jurisdiction of the Surface Transportation Board under section 11323(a) of this title, the Secretary may study the proposal to decide whether it satisfies section 11324(b) of this title. When the proposal is the subject of an application and proceeding before the Board, the Secretary may appear in any proceeding related to the application.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2429; Pub. L. 104-88, title III, §308(b), Dec. 29, 1995, 109 Stat. 946; Pub. L. 112-141, div. C, title II, §32932(a)(3), (4), July 6, 2012, 126 Stat. 829.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
333(a) .....	49:1654(a).	Oct. 15, 1966, Pub. L. 89-670, 80 Stat. 931, §5(a)-(e); added Feb. 5, 1976, Pub. L. 94-210, §401, 90 Stat. 61.
333(b) .....	49:1654(b).	
333(c) .....	49:1654(c).	
333(d) .....	49:1654(d).	
333(e) .....	49:1654(e).	

In the section, the word “transportation” is substituted for “services” for consistency.

In subsection (a), the words “feasible” and “but not limited to” are omitted as surplus.

In subsection (b), the words “In order” are omitted as surplus. The words “at least 2” are substituted for “two or more” for consistency.

In subsection (c)(1), the words “as are deemed” are omitted as unnecessary.

In subsection (c)(2), the words “and the study described in section 901 of the Railroad Revitalization and Regulatory Reform Act of 1976” and “or such section 901” are omitted as executed. The word “nature” is omitted as covered by “kind”. The word “When” is substituted for “to the extent” for consistency. The word “necessary” is omitted as being included in “appropriate”. A cross-reference to section 203(c) of the Regional Rail Reorganization Act of 1973 is included even though the law is unclear because section 1149 of the Omnibus Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 675) amended section 203 to repeal the powers referred to in the source provisions. No position is taken as to whether the powers described in section 203(c) are still in existence.

In subsection (d)(1)(A), the word “appropriate” is omitted as surplus.

In subsection (d)(1)(C), the words “representatives of” are added for consistency in the section.

In subsection (e), the words “in his judgment” are omitted as unnecessary and covered by “decide”. The word “satisfies” is substituted for “is in accordance with the standards set forth in” to eliminate unnecessary words.

REFERENCES IN TEXT

Section 203 of the Regional Rail Reorganization Act of 1973, referred to in subsec. (c)(2), which is classified to section 713 of Title 45, Railroads, was amended generally by Pub. L. 97-35, title XI, §1149, Aug. 13, 1981, 95 Stat. 675, and as so amended does not contain a subsec. (c). For further details, see the fifth par. of Historical and Revision Notes above.

AMENDMENTS

2012—Subsec. (d)(1)(C). Pub. L. 112-141, §32932(a)(3), substituted “Surface Transportation Board” for “Interstate Commerce Commission”.

Subsec. (e). Pub. L. 112-141, §32932(a)(4), substituted “Surface Transportation Board” for “Interstate Commerce Commission” and “Board” for “Commission”.

1995—Subsec. (c)(2). Pub. L. 104-88, §308(b)(1), substituted “11904” for “11910(a)(1)”.

Subsec. (e). Pub. L. 104-88, §308(b)(2), substituted “11323(a)” for “11343(a)” and “11324(b)” for “11344(b)”.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of this title.

**[[§§ 334, 335. Repealed. Pub. L. 103-272, § 4(j)(9)(A), July 5, 1994, 108 Stat. 1367]**

Section 334, Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2430; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 100-223, title III, §304, Dec. 30, 1987, 101 Stat. 1525; Pub. L. 100-690, title VII, §7207(c)(3), Nov. 18, 1988, 102 Stat. 4428, related to a limit on aviation charges. See section 45301 of this title.

Section 335, Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2430, authorized appropriations to the Secretary of Transportation for fiscal years ending Sept. 30, 1983, and Sept. 30, 1984.

**§ 336. Civil penalty procedures**

(a) After notice and an opportunity for a hearing, a person found by the Secretary of Transportation to have violated a provision of law that the Secretary carries out through the Maritime Administrator or the Commandant of the Coast Guard or a regulation prescribed under that law by the Secretary for which a civil penalty is provided, is liable to the United States Government for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty until the assessment is referred to the Attorney General.

(c) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(d) The Secretary may refund or remit a civil penalty collected under this section if—

- (1) application has been made for refund or remission of the penalty within one year from the date of payment; and
- (2) the Secretary finds that the penalty was unlawfully, improperly, or excessively imposed.

(Added Pub. L. 101-225, title III, §305(1), Dec. 12, 1989, 103 Stat. 1924.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reor-

ganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 337. Budget request for the Director of Intelligence and Security**

The annual budget the Secretary of Transportation submits shall include a specific request for the Office of the Director of Intelligence and Security. In deciding on the budget request for the Office, the Secretary shall consider recommendations in the annual report submitted under section 44938(a) of this title.

(Pub. L. 103-272, § 4(j)(10)(A), July 5, 1994, 108 Stat. 1367.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
337 .....	49 App.:1652b (note).	Nov. 16, 1990, Pub. L. 101-604, § 102(d), 104 Stat. 3069.

The words “the Secretary of Transportation submits” are substituted for “submission for the Department of Transportation”, and the words “budget request for the Office” are substituted for “budget request for the Director”, for clarity and consistency in the revised title and with other titles of the United States Code.

SUBCHAPTER III—MISCELLANEOUS

**§ 351. Judicial review of actions in carrying out certain transferred duties and powers**

(a) JUDICIAL REVIEW.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89-670, 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.

(b) APPLICATION OF PROCEDURAL REQUIREMENTS.—A statutory requirement related to notice, an opportunity for a hearing, action on the record, or administrative review that applied to a duty or power transferred by the Act applies to the Secretary or Administrator when carrying out the duty or power.

(c) NONAPPLICATION.—This section does not apply to a duty or power transferred from the Interstate Commerce Commission to the Secretary under section 6(e)(1)–(4) and (6)(A) of the Act.

(Pub. L. 103-272, § 4(j)(10)(A), July 5, 1994, 108 Stat. 1367; Pub. L. 109-59, title IV, § 4125(b), Aug. 10, 2005, 119 Stat. 1738.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
351 .....	49 App.:1653(c).	Oct. 15, 1966, Pub. L. 89-670, § 4(c), 80 Stat. 933.

In this subchapter, the words “duty or power” are substituted for “functions, powers, and duties” for clar-

ity and consistency. The words “department, agency, or instrumentality of the United States Government” are substituted for “department or agency” for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the word “orders” is omitted as being included in “action”.

REFERENCES IN TEXT

The Department of Transportation Act, referred to in subsecs. (a) and (b), is Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, as amended, which was classified principally to sections 1651 to 1660 of former Title 49, Transportation. The Act was repealed and the provisions thereof reenacted in Title 49, Transportation, by Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2413, and Pub. L. 103-272, July 5, 1994, 108 Stat. 745. The Act was also repealed by Pub. L. 104-287, § 7(5), Oct. 11, 1996, 110 Stat. 3400. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-59 substituted “Federal Motor Carrier Safety Administration” for “Federal Highway Administration”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of this title, and section 101 of Pub. L. 104-88, set out as a note under section 701 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of this title.

**§ 352. Authority to carry out certain transferred duties and powers**

In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89-670, 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.

(Pub. L. 103-272, § 4(j)(10)(A), July 5, 1994, 108 Stat. 1368; Pub. L. 109-59, title IV, § 4125(c), Aug. 10, 2005, 119 Stat. 1738.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
352 .....	49 App.:1653(d).	Oct. 15, 1966, Pub. L. 89-670, § 4(d), 80 Stat. 934.

The words “force and” are omitted as surplus.

REFERENCES IN TEXT

The Department of Transportation Act, referred to in text, is Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, as amended, which was classified principally to sections 1651 to 1660 of former Title 49, Transportation. The Act was repealed and the provisions thereof reenacted in

Title 49, Transportation, by Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2413, and Pub. L. 103-272, July 5, 1994, 108 Stat. 745. The Act was also repealed by Pub. L. 104-287, §7(5), Oct. 11, 1996, 110 Stat. 3400. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

AMENDMENTS

2005—Pub. L. 109-59 substituted “Federal Motor Carrier Safety Administration” for “Federal Highway Administration”.

§ 353. Toxicological testing of officers and employees

(a) COLLECTING SPECIMENS.—When the Secretary of Transportation or the head of a component of the Department of Transportation conducts post-accident or post-incident toxicological testing of an officer or employee of the Department, the Secretary or head shall collect the specimen from the officer or employee as soon as practicable after the accident or incident. The Secretary or head shall try to collect the specimen not later than 4 hours after the accident or incident.

(b) REPORTS.—The head of each component shall submit a report to the Secretary on the circumstances about the amount of time required to collect the specimen for a toxicological test conducted on an officer or employee who is reasonably associated with the circumstances of an accident or incident under the investigative jurisdiction of the National Transportation Safety Board.

(c) NONCOMPLIANCE NOT A DEFENSE.—An officer or employee required to submit to toxicological testing may not assert failure to comply with this section as a claim, cause of action, or defense in an administrative or judicial proceeding.

(Pub. L. 103-272, §4(j)(10)(A), July 5, 1994, 108 Stat. 1368.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 353, 49 App.:1657-1, Nov. 28, 1990, Pub. L. 101-641, §5, 104 Stat. 4656.

In this section, the words “officer or employee” are substituted for “employee” for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words “Secretary of Transportation or the head of a component of the Department of Transportation” are substituted for “Department of Transportation, including any of its agencies” for consistency in the revised title and with other titles of the Code.

In subsection (b), the word “Secretary” is substituted for “Office of the Secretary of Transportation” for consistency in the revised title and with other titles of the Code. The words “within that agency” are omitted as unnecessary.

In subsection (c), the words “An officer or employee required to submit to toxicological testing may not assert” are substituted for “may not be asserted” for clarity.

§ 354. Investigative authority of Inspector General

(a) IN GENERAL.—The statutory authority of the Inspector General of the Department of

Transportation includes authority to conduct, pursuant to Federal criminal statutes, investigations of allegations that a person or entity has engaged in fraudulent or other criminal activity relating to the programs and operations of the Department or its operating administrations.

(b) REGULATED ENTITIES.—The authority to conduct investigations referred to in subsection (a) extends to any person or entity subject to the laws and regulations of the Department or its operating administrations, whether or not they are recipients of funds from the Department or its operating administrations.

(Added and amended Pub. L. 108-168, §8(a), (b)(1), Dec. 6, 2003, 117 Stat. 2034.)

CODIFICATION

The text of section 228 of Pub. L. 106-159, formerly set out as a note under section 4 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, Government Organization and Employees, which was transferred to this section, redesignated as text of section, and amended by Pub. L. 108-168, §8(a), (b)(1), was based on Pub. L. 106-159, title II, §228, Dec. 9, 1999, 113 Stat. 1773.

AMENDMENTS

2003—Pub. L. 108-168 renumbered section 228 of Pub. L. 106-159 as this section and substituted “Investigative authority of Inspector General” for “DOT Authority” in section catchline. See Codification note above.

DEPOSIT OF FORFEITED FUNDS

Pub. L. 113-235, div. K, title I, Dec. 16, 2014, 128 Stat. 2724, provided in part: “That hereafter funds transferred to the Office of the Inspector General through forfeiture proceedings or from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund, as a participating agency, as an equitable share from the forfeiture of property in investigations in which the Office of Inspector General participates, or through the granting of a Petition for Remission or Mitigation, shall be deposited to the credit of this account [Office of Inspector General, Salaries and Expenses] for law enforcement activities authorized under the Inspector General Act of 1978, as amended [5 U.S.C. App.], to remain available until expended.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 113-76, div. L, title I, Jan. 17, 2014, 128 Stat. 600.

CHAPTER 5—SPECIAL AUTHORITY

SUBCHAPTER I—POWERS

- Sec. 501. Definitions and application.
502. General authority.
503. Service of notice and process on certain motor carriers of migrant workers and on motor private carriers.
504. Reports and records.
505. Arrangements and public records.
506. Authority to investigate.
507. Enforcement.
508. Safety performance history of new drivers; limitation on liability.

SUBCHAPTER II—PENALTIES

- 521. Civil penalties.
522. Reporting and record keeping violations.
523. Unlawful disclosure of information.
524. Evasion of regulation of motor carriers.
525. Disobedience to subpoenas.<sup>1</sup>

<sup>1</sup> Section catchline amended by Pub. L. 112-141 without corresponding amendment of chapter analysis.

Sec.  
526. General criminal penalty when specific penalty not provided.

AMENDMENTS

1998—Pub. L. 105-178, title IV, § 4014(a)(2), June 9, 1998, 112 Stat. 411, added item 508.

1997—Pub. L. 105-102, § 2(1), Nov. 20, 1997, 111 Stat. 2204, struck out “DUTIES AND” before “POWERS” in item for heading of subchapter I.

SUBCHAPTER I—POWERS

AMENDMENTS

1997—Pub. L. 105-102, § 2(2), Nov. 20, 1997, 111 Stat. 2204, struck out “AND” before “POWERS”.

1995—Pub. L. 104-88, title III, § 308(c)(1), Dec. 29, 1995, 109 Stat. 947, struck out “DUTIES” before “AND”.

§ 501. Definitions and application

(a) In this chapter—

(1) the definitions in sections 10102 and 13102 of this title apply.

(2) “migrant worker” has the same meaning given that term in section 31501 of this title.

(3) “motor carrier of migrant workers” means a motor carrier of migrant workers subject to the jurisdiction of the Secretary of Transportation under section 31502(c) of this title.

(b) APPLICATION.—This chapter only applies in carrying out sections 20302(a)(1)(B) and (C), (2), and (3), (c), and (d)(1) and 20303 and chapters 205 (except section 20504(b)), 211, 213 (in carrying out those sections and chapters), and 315 of this title.

(Pub. L. 97-449, § 1(b), Jan. 12, 1983, 96 Stat. 2431; Pub. L. 98-216, § 2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 102-548, § 2(c), Oct. 28, 1992, 106 Stat. 3648; Pub. L. 103-272, §§ 4(j)(11)(A), 5(m)(9), July 5, 1994, 108 Stat. 1368, 1376; Pub. L. 104-88, title III, § 308(c)(2), Dec. 29, 1995, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES

PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
501(a) .....	(no source).	
501(b) .....	45:15.	Apr. 14, 1910, ch. 160, § 6, 36 Stat. 299.
	49:26(g).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(g); added Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919.
	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.

In the chapter, the source provisions are those in effect on March 31, 1967, the day before the effective date of the Department of Transportation Act (Pub. L. 89-670, 80 Stat. 931), because 49:1655(f)(2) gave the Secretary of Transportation the same powers enumerated in 49:1655(f)(2) that the Interstate Commerce Commission had before certain duties and powers under 49:1655(e) were transferred on April 1, 1967, from the Commission to the Secretary. All references to brokers in the source provisions are omitted as not being applicable to the duties and powers transferred to the Secretary of Transportation.

Subsection (a) is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the definitions are found in the revision notes for sections 3101, 3102(c), and 10102 of the revised title.

In subsection (b), the provisions of law to which the chapter applies are only certain laws listed in 49:1655(e).

Those laws include the source provisions restated in chapter 31 of the revised title and 45:4, 5, 6 (in carrying out 45:4 and 5), 11, 12, 13 (proviso), 13 (less proviso in carrying out 45:11, 12, and 13 (proviso)), and 61-64b, and 49:26(a)-(f) (words before last semicolon) and (h). The administrative powers of the Secretary under the chapter are based on the administrative powers of 49:1655(f)(2). That provision lists administrative powers the Commission had under the Interstate Commerce Act (ch. 104, 24 Stat. 379) to carry out the Act, and certain other laws authorized the Commission to use its powers under the Act to carry out those other laws. The administrative powers listed in 49:1655(f)(2) and codified in the chapter therefore apply only to a law listed in 49:1655(e) that was a part of the Interstate Commerce Act or to which the powers of the Commission under the Act were applied. The text of 45:61-64b is included because section 4 of the Act of March 4, 1907 (ch. 2939, 34 Stat. 1417), stated, “It shall be the duty of the Interstate Commerce Commission to execute and enforce the provisions of this Act, and all powers granted to the Interstate Commerce Commission are hereby extended to it in the execution of this Act”. The transfer to the Secretary was executed on March 31, 1967. The Act of March 4, 1907, was restated by the Act of December 26, 1969 (Pub. L. 91-169, 83 Stat. 463); section 4 was not included in the restatement. However, repeal by implication is not favored and the transfer was completed on March 31, 1967. Therefore, the text of 45:61-64b is included within the scope of the chapter. The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

PUB. L. 103-272

Section 4(j)(11) makes conforming amendments to 49:ch. 5 to reflect the restatement of 49:508 and related provisions in chapter 59 of the revised title.

AMENDMENTS

1995—Subsec. (a)(1). Pub. L. 104-88 substituted “sections 10102 and 13102” for “section 10102”.

1994—Subsec. (a)(2). Pub. L. 103-272, § 5(m)(9)(A), substituted “section 31501” for “section 3101”.

Subsec. (a)(3). Pub. L. 103-272, § 5(m)(9)(B), substituted “section 31502(c)” for “section 3102(c)”.

Subsec. (a)(4) to (9). Pub. L. 103-272, § 4(j)(11)(A), struck out pars. (4) to (9) which defined “beneficial owner”, “carrier”, “container”, “initial carrier”, “intermodal transportation”, and “trailer”, respectively.

Subsec. (b). Pub. L. 103-272, § 5(m)(9)(C), added subsec. (b) and struck out former subsec. (b) which read as follows: “This chapter only applies in carrying out—

“(1) chapter 31 of this title; and

“(2) other duties and powers transferred to the Secretary under section 6(e) of the Department of Transportation Act (49 App. U.S.C. 1655(e)) and vested in the Interstate Commerce Commission before October 15, 1966.”

1992—Subsec. (a)(4) to (9). Pub. L. 102-548 added pars. (4) to (9).

1984—Subsec. (b)(2). Pub. L. 98-216 substituted “49 App. U.S.C.” for “49 U.S.C.”.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of this title.

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-548, § 1, Oct. 28, 1992, 106 Stat. 3646, provided that: “This Act [enacting section 508 of this title, amending this section and section 521 of this title, and enacting provisions set out as notes under section 508 of this title] may be cited as the ‘Intermodal Safe Container Transportation Act of 1992’.”

§ 502. General authority

(a) The Secretary of Transportation shall carry out this chapter.

(b) The Secretary may—

(1) inquire into and report on the management of the business of rail carriers and motor carriers;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers to the extent that the business of the person is related to the management of the business of that carrier; and

(3) obtain from those carriers and persons information the Secretary determines to be necessary.

(c) In carrying out this chapter as it applies to motor carriers, motor carriers of migrant workers, and motor private carriers, the Secretary may—

(1) confer and hold joint hearings with State authorities;

(2) cooperate with and use the services, records, and facilities of State authorities; and

(3) make cooperative agreements with a State to enforce the safety laws and regulations of a State and the United States related to highway transportation.

(d) The Secretary may subpoena witnesses and records related to a proceeding or investigation under this chapter from a place in the United States to the designated place of the proceeding or investigation. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding or investigation before the Secretary, may petition the district court for the judicial district in which the proceeding or investigation is conducted to enforce the subpoena. The court may punish a refusal to obey an order of the court to comply with a subpoena as a contempt of court.

(e)(1) In a proceeding or investigation, the Secretary may take testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding or investigation pending before the Secretary may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding or investigation is at issue on petition and answer. If a witness fails to be deposed or to produce records under this subsection, the Secretary may subpoena the witness to take a deposition, produce the records, or both.

(2) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding or investigation.

(3) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testi-

mony taken. The transcript shall be subscribed by the deponent.

(5) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. The deposition shall be filed with the Secretary promptly.

(f) Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2431; Pub. L. 103-272, §4(j)(12), July 5, 1994, 108 Stat. 1368.)

HISTORICAL AND REVISION NOTES

PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
502 .....	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
502(c)-(f) ....	49:304(a)(3) (last sentence) (related to "Sec. 305").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 205"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 305").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 205"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 502	49 U.S. Code	Revised Section
(a), (b) .....	12(1)(a) (1st sentence, 2d sentence, and last sentence words before 1st semicolon).	10321
	304(a) (matter before (1)), (6), (7) (less words after semicolon).	10321
(c) .....	305(f).	11502
(d) .....	12(1)(a) (last sentence words after last semicolon), (2), (3).	10321
	305(d) (related to Commission subpoena power).	10321
(e)(1)-(3) .....	12(4).	10321
	305(d) (related to depositions taken by Commission).	10321
(e)(4) and (5)	12(5), (6).	10321
	305(d) (related to depositions taken by Commission).	10321
(f) .....	12(7).	10321
	18(1) (last sentence).	10321
	305(d) (related to depositions taken by Commission).	10321

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The text of 49:305(a)-(c), (e), and (g)-(j) is not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In subsection (b), the text of 49:12(1)(a) (2d sentence words after semicolon) is omitted as unnecessary because the Secretary of Transportation already has authority under chapter 3 of the revised title to make recommendations to Congress.

In subsections (c)–(f), the text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

In subsection (c), the words “economic and” are omitted as not being transferred to the Secretary. The text of 49:305(f) (last sentence) is omitted as not applicable to this chapter.

In subsection (d), the reference to joint boards in 49:305(d) is omitted as not applicable to this chapter because 49:305(a) (establishing joint boards) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

PUB. L. 103–272

Section 4(j)(12) amends 49:502(e)(2) and 10321(d)(3) to reflect the change in the name of United States magistrates to United States magistrate judges made by section 321 of the Judicial Improvements Act of 1990 (Public Law 101–650, 104 Stat. 5117).

AMENDMENTS

1994—Subsec. (e)(2). Pub. L. 103–272 inserted “judge” after “United States magistrate”.

§ 503. Service of notice and process on certain motor carriers of migrant workers and on motor private carriers

(a) Each motor carrier of migrant workers (except a motor contract carrier) and each motor private carrier shall designate an agent by name and post office address on whom service of notices in a proceeding before, and actions of, the Secretary of Transportation may be made. The designation shall be in writing and filed with the Secretary. The carrier also shall file the designation with the authority of each State in which it operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. The designation may be changed at any time in the same manner as originally made.

(b) A notice of the Secretary to a carrier under this section is served personally or by mail on that carrier or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If the carrier does not have a designated agent, service may be made by posting a copy of the notice in the office of the secretary or clerk of the authority having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of the State in which the carrier maintains headquarters and with the Secretary.

(c) Each of those carriers, including such a carrier operating in the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier. The designation shall be in writing and filed with the Secretary and with the authority of each State in which the carrier operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. If a designation under this subsection is not made, service may be made on any agent of the carrier in that State. The designation may be changed at any time in the same manner as originally made.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2432.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 503, 49:304(a)(3) (last sentence) (related to "Sec. 321"), Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 221")...

The section is included because 49:1655(e)(6)(D) transferred to the Secretary of Transportation all functions, powers, and duties of the Interstate Commerce Commission under 49:321(a) and (c) to the extent those subsections relate to motor carriers of migrant workers and motor private carriers. The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Table with 3 columns: Section 503, 49 U.S. Code, Revised Section. Row 1: (a), (b), (c), 321(a), 321(c), 10329, 10330.

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In the section, the words “motor carriers” are omitted because 49:1655(e)(6)(D) applies 49:321(a) and (c) only to motor carriers of migrant workers, other than motor contract carriers, and to motor private carriers, and 49:1655(f)(2)(B)(ii) contains no reference to 49:321. The text of 49:321(b) and (d) is not included because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(e)(6)(D).

In subsection (b), the text of 49:321(a) (less 1st–5th sentences) is omitted as not applicable to this chapter.

§ 504. Reports and records

(a) In this section—

(1) “association” means an organization maintained by or in the interest of a group of rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers that performs a service, or engages in activities, related to transportation of that carrier.

(2) “carrier” means a motor carrier, motor carrier of migrant workers, motor private carrier, and rail carrier.

(3) “lessor” means a person owning a railroad that is leased to and operated by a rail carrier, and a person leasing a right to operate as a motor carrier, motor carrier of migrant workers, or motor private carrier to another.

(4) “lessor” and “carrier” include a receiver or trustee of that lessor or carrier, respectively.

(b)(1) The Secretary of Transportation may prescribe the form of records required to be prepared or compiled under this section by—

(A) carriers and lessors; and

(B) a person furnishing cars or protective service against heat or cold to or for a rail carrier.

(2) The Secretary may require—

(A) carriers, lessors, associations, or classes of them as the Secretary may prescribe, to file annual, periodic, and special reports with the Secretary containing answers to questions asked by the Secretary; and

(B) a person furnishing cars or protective service against heat or cold to a rail carrier to file reports with the Secretary containing answers to questions about those cars or service.

(c) The Secretary, or an employee (and, in the case of a motor carrier, a contractor, or an employee of the recipient of a grant issued under section 31102 of this title) designated by the Secretary, may on demand and display of proper credentials, in person or in writing—

(1) inspect the equipment of a carrier or lessor; and

(2) inspect and copy any record of—

(A) a carrier, lessor, or association;

(B) a person controlling, controlled by, or under common control with a carrier, if the Secretary considers inspection relevant to that person's relation to, or transaction with, that carrier; and

(C) a person furnishing cars or protective service against heat or cold to or for a rail carrier if the Secretary prescribed the form of that record.

(d) The Secretary may prescribe the time period during which records must be preserved by a carrier, lessor, and person furnishing cars or protective service.

(e)(1) An annual report shall contain an account, in as much detail as the Secretary may require, of the affairs of a carrier, lessor, or association for the 12-month period ending on the 31st day of December of each year. The annual report shall be filed with the Secretary by the end of the 3d month after the end of the year for which the report is made unless the Secretary extends the filing date or changes the period covered by the report.

(2) The annual report and, if the Secretary requires, any other report made under this section shall be made under oath.

(f) No part of a report of an accident occurring in operations of a motor carrier, motor carrier of migrant workers, or motor private carrier and required by the Secretary, and no part of a report of an investigation of the accident made by the Secretary, may be admitted into evidence or used in a civil action for damages related to a matter mentioned in the report or investigation.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2433; Pub. L. 105-178, title IV, §4006(b), June 9, 1998, 112 Stat. 401; Pub. L. 112-141, div. C, title II, §32501(a), July 6, 2012, 126 Stat. 802.)

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
504(f) .....	49:1655(f)(2). 49:320(f).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940. Feb. 4, 1887, ch. 104, 24 Stat. 379, §220(f); added Sept. 18, 1940, ch. 722, §24, 54 Stat. 926.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

<i>Section 504</i>	<i>49 U.S. Code</i>	<i>Revised Section</i>
(a)(1), (3), and (4).	20(8).	3501, 11141
(a)(2) .....	320(e). (no source).	11141
(b)(1) .....	20(5) (1st sentence), (6) (2d sentence, 1st cl.), (7)(b) (proviso).	11144
(b)(2) .....	320(d) (1st sentence).	11144
(c) .....	20(1) (1st sentence less manner and form of reports), (6) (2d sentence, 2d cl.).	11145
(d) .....	320(a) (1st sentence).	11145
(e) .....	20(5) (less 1st sentence), (6) (less 2d sentence).	11144
	320(d) (3d and 4th sentences).	11144
	20(7)(b) (proviso).	11144
	320(d) (less 1st, 3d, and 4th sentences).	11144
	20(1) (1st sentence related to manner and form of reports).	11145
	320(a) (2d sentence), (b).	11145

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The provisions of 49:320(c) are not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In the section, the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The text of 49:320(b) (related to 13-period accounting year) and (g) is not included because it was enacted after the effective date of the transfer authority under 49:1655.

In subsection (a), references to “water line” and “pipe line” are omitted as not applicable to this chapter. Clause (2) is added to provide a simple phrase to refer to all types of carriers to which the section applies.

In subsection (f), the words “the course of the” are omitted as surplus. The words “civil action” are substituted for “suit or action” because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

AMENDMENTS

2012—Subsec. (c). Pub. L. 112-141 inserted “, or an employee of the recipient of a grant issued under section 31102 of this title” after “a contractor” and “, in person or in writing” after “proper credentials” in introductory provisions.

1998—Subsec. (c). Pub. L. 105-178 inserted “(and, in the case of a motor carrier, a contractor)” after “employee” in introductory provisions.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
504 .....	49:304(a)(3) (last sentence) (related to “Sec. 320(a) (1st, 2d sentences), (b)-(g)”). 49:304(a)(3a) (last sentence) (related to “Sec. 320(a) (1st, 2d sentences), (b)-(g)”).	Feb. 4, 1887, ch. 104, 24 Stat. 379. §204(a)(3) (last sentence) (related to “Sec. 220(a) (1st, 2d sentences), (b)-(g)”; added Aug. 9, 1935, ch. 498, 49 Stat. 546). Feb. 4, 1887, ch. 104, 24 Stat. 379. §204(a)(3a) (last sentence) (related to “Sec. 220(a) (1st, 2d sentences), (b)-(g)”; added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958).

**§ 505. Arrangements and public records**

(a) The Secretary of Transportation may require a motor carrier, motor carrier of migrant workers, or motor private carrier to file a copy of each arrangement related to a matter under this chapter that it has with another person. The Secretary may disclose the existence or contents of an arrangement between a motor contract carrier and a shipper filed under this section only if the disclosure is consistent with the public interest and is made as part of the record in a formal proceeding.

(b) Except as provided in subsection (a) of this section, all arrangements and statistics, tables, and figures contained in reports filed with the Secretary by a motor carrier under this chapter are public records. Such a public record, or a copy or extract of it, certified by the Secretary under seal is competent evidence in a proceeding of the Secretary, and, except as provided in section 504(f) of this title, in a judicial proceeding. (Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2434.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
505 .....	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
505(a) .....	49:304(a)(3) (last sentence) (related to "Sec. 320(a) (less 1st, 2d sentences)"); 49:304(a)(3a) (last sentence) (related to "Sec. 320(a) (less 1st, 2d sentences)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 220(a) (less 1st, 2d sentences)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546. Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 220(a) (less 1st, 2d sentences)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 505	49 U.S. Code	Revised Section
(a) .....	320(a) (less 1st, 2d sentences).	10764
(b) .....	16(13).	10303
	304(d) (related to administrative matters).	10303

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a), the text of 49:320(a) (proviso) is not included for motor carriers of migrant workers and motor private carriers because that provision, while included in the enumeration in 49:304(a)(3) and (3a), is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The text of 40:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The words "also" and "with it" are omitted as surplus. The words "contract, agreement, or" are omitted as covered by "arrangement". The words "carrier or" are omitted as covered by "person". The words "related to a matter under this chapter" are substituted for "in relation to any traffic affected by the provisions of this chapter" for clarity because of section 501 of the revised title.

Subsection (b) does not apply to reports made to the Secretary by a rail carrier because 49:16(13) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The subsection does not apply to motor carriers of migrant workers and motor private carriers because 49:304(d) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:304(d) to motor carriers of migrant workers and motor private carriers. References to schedules, classifications, and tariffs are omitted as not applicable to this chapter. The words "Except as provided in subsection (a) of this section" are added for clarity. The words "except as provided in section 504(f) of this title" are added for clarity and consistency because of the restatement of the chapter.

**§ 506. Authority to investigate**

(a) The Secretary of Transportation may begin an investigation under this chapter on the initiative of the Secretary or on complaint. If the Secretary finds that a rail carrier, motor carrier, motor carrier of migrant workers, or motor private carrier is violating this chapter, the Secretary shall take appropriate action to compel compliance with this chapter. The Secretary may take action only after giving the carrier notice of the investigation and an opportunity for a proceeding.

(b) A person, including a governmental authority, may file with the Secretary a complaint about a violation of this chapter by a carrier referred to in subsection (a) of this section. The complaint must state the facts that are the subject of the violation. The Secretary may dismiss a complaint the Secretary determines does not state reasonable grounds for investigation and action. However, the Secretary may not dismiss a complaint made against a rail carrier because of the absence of direct damage to the complainant.

(c) The Secretary shall make a written report of each proceeding involving a rail carrier or motor carrier conducted and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Secretary. The Secretary may have the reports published for public use. A published report of the Secretary is competent evidence of its contents.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2434.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
506 .....	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
506(a), (b) ...	49:304(a)(3) (last sentence) (related to "Sec. 304(c)"); 49:304(a)(3a) (last sentence) (related to "Sec. 304(c)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 204(c)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546; Sept. 18, 1940, ch. 722, §20(b)(4), 54 Stat. 922. Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 204(c)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV

of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 506	49 U.S. Code	Revised Section
(a) .....	13(1) (1st sentence less words before semicolon, last sentence), (2) (1st, 2d sentences).	11701
	304(c) (1st sentence words after 5th comma, 2d sentence).	11701
(b) .....	13(1) (1st sentence words before semicolon).	11701
	13(2) (less 1st, 2d sentences).	11701
	304(c) (less 1st sentence words after 5th comma, 2d sentence).	11701
(c) .....	14.	10310
	304(d) (related to reports).	10310

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsections (a) and (b), the text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

Subsection (a) is patterned after 49:304(c). The words “violating this chapter” are substituted for “failed to comply with any such provision or requirement” for clarity.

In subsection (b), the text of 49:13(2) (last sentence) is omitted because 49:13(3) is not included in the specific enumeration of 49:1655(f)(2)(B)(i). The words “referred to in subsection (a) of this section” are added for clarity.

Subsection (c) does not apply to motor carriers of migrant workers and motor private carriers because 49:304(d) applies only to motor carriers and 49:304(a)(3) and (3a) do not apply 49:304(d) to motor carriers of migrant workers and motor private carriers. The word “proceeding” is substituted for “investigation” for clarity and to conform to other sections of the revised title. The word “findings” is added for clarity. The word “decision” is omitted as covered by “conclusions”. The words “or requirement” are omitted as covered by “order”. The words “in the premises” are omitted as surplus. The words “and in case damages are awarded, such report shall include the findings of fact on which the award is made” are omitted as not applicable to this chapter. The words “entered of record”, “and decisions in such form and manner as may be best adapted for public information and use”, and “in all courts of the United States and of the several States without any further proof or authentication thereof” are omitted as surplus. The text of 49:14(3) (last sentence) is omitted as unnecessary.

**§ 507. Enforcement**

(a) The Secretary of Transportation may bring a civil action to enforce—

(1) an order of the Secretary under this chapter when violated by a rail carrier; and

(2) this chapter or a regulation or order of the Secretary under this chapter when violated by a motor carrier, motor carrier of migrant workers, motor private carrier, or freight forwarder.

(b) The Attorney General may, and on request of the Secretary shall, bring court proceedings to enforce this chapter or a regulation or order of the Secretary under this chapter and to prosecute a person violating this chapter or a regulation or order of the Secretary.

(c) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title, or an order or regulation is-

sued under any of those provisions. Such district court shall have jurisdiction to determine any such action and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(d) A person injured because a rail carrier or freight forwarder does not obey an order of the Secretary under this chapter may bring a civil action to enforce that order under this subsection.

(e) In a civil action brought under subsection (a)(2) of this section against a motor carrier, motor carrier of migrant workers, or motor private carrier—

(1) trial is in the judicial district in which the carrier operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is brought; and

(3) a person participating with the carrier in a violation may be joined in the civil action without regard to the residence of the person.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2435; Pub. L. 98–554, title II, §213(a), Oct. 30, 1984, 98 Stat. 2841; Pub. L. 103–272, §5(m)(10), July 5, 1994, 108 Stat. 1376.)

**HISTORICAL AND REVISION NOTES**

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
507 .....	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.
507(a), (d) ...	49:304(a)(3) (last sentence) (related to “Sec. 322(b)”).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to “Sec. 222(b)”); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to “Sec. 322(b)”).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to “Sec. 222(b)”); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 507	49 U.S. Code	Revised Section
(a) .....	16(12) (related to Commission action).	11702
	322(b)(1) (less 1st sentence last 18 words, 2d sentence, last sentence).	11702
	1017(b)(1) (related to Commission action).	11702
(b) .....	12(1)(a) (last sentence less words before 1st semicolon and after last semicolon).	11703
	16(12) (related to action by the Attorney General).	11703
	20(9).	11703
(c) .....	16(12) (related to action by private person).	11705
	1017(b)(1) (related to action by the Attorney General).	11703
(d) .....	322(b)(1) (1st sentence last 18 words, 2d sentence, last sentence).	11702
	1017(b)(1) (related to action by private person).	11705

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In the section, the text of 49:322(b)(2) and (3) is not included for motor carriers of migrant workers and

motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In subsections (a) and (d), the text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

In subsection (a), the words “or of any term or condition of any certificate or permit” are omitted as not applicable to this chapter.

In subsection (a)(1), reference to a civil action to enforce an order for the payment of money is omitted as not applicable to this chapter.

#### AMENDMENTS

1994—Subsec. (c). Pub. L. 103-272 substituted “subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title” for “section 3102 of this title or the Motor Carrier Safety Act of 1984” and “any of those provisions” for “such section or Act”.

1984—Subsecs. (c) to (e). Pub. L. 98-554 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

#### DOT IMPLEMENTATION PLAN

Pub. L. 105-178, title IV, § 4026, June 9, 1998, 112 Stat. 416, provided that:

“(a) ASSESSMENT.—Not later than 18 months after the date of enactment of this section [June 9, 1998], the Secretary [of Transportation] shall assess the scope of the problem of shippers, freight forwarders, brokers, consignees, or other persons (other than rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers) encouraging violations of chapter 5 of title 49, United States Code, or a regulation or order issued by the Secretary under such chapter.

“(b) SUBMISSION OF IMPLEMENTATION PLAN.—After completion of the assessment under subsection (a), the Secretary may submit to the Congress a plan for implementing authority (if subsequently provided by law) to investigate and bring civil actions to enforce chapter 5 of title 49, United States Code, or regulations or orders issued by the Secretary under such chapter with respect to persons described in subsection (a).

“(c) CONTENTS OF IMPLEMENTATION PLAN.—In developing the implementation plan under subsection (b), the Secretary shall consider, as appropriate—

“(1) in what circumstances the Secretary would exercise the new authority;

“(2) how the Secretary would determine that shippers, freight forwarders, brokers, consignees, or other persons committed violations described in subsection (a), including what types of evidence would be conclusive;

“(3) what procedures would be necessary during investigations to ensure the confidentiality of shipper contract terms prior to the Secretary’s findings of violations;

“(4) what impact the exercise of the new authority would have on the Secretary’s resources, including whether additional investigative or legal resources would be necessary and whether the staff would need specialized education or training to exercise properly such authority;

“(5) to what extent the Secretary would conduct educational activities for persons who would be subject to the new authority; and

“(6) any other information that would assist the Congress in determining whether to provide the Secretary the new authority.”

#### § 508. Safety performance history of new drivers; limitation on liability

(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against—

(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

(2) a person who has complied with such a request; or

(3) the agents or insurers of a person described in paragraph (1) or (2).

(b) RESTRICTIONS ON APPLICABILITY.—

(1) MOTOR CARRIER REQUESTING.—Subsection (a) does not apply to a motor carrier requesting safety performance records unless—

(A) the motor carrier and any agents of the motor carrier have complied with the regulations issued by the Secretary in using the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

(B) the motor carrier and any agents and insurers of the motor carrier have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in deciding whether to hire that individual; and

(C) the motor carrier has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

(2) PERSON COMPLYING WITH REQUESTS.—Subsection (a) does not apply to a person complying with a request for safety performance records unless—

(A) the complying person and any agents of the complying person have taken all precautions reasonably necessary to ensure the accuracy of the records and have complied with the regulations issued by the Secretary in furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records; and

(B) the complying person and any agents and insurers of the complying person have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in forwarding the records.

(3) PERSONS KNOWINGLY FURNISHING FALSE INFORMATION.—Subsection (a) does not apply to persons who knowingly furnish false information.

(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary to carry out this section. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of

an individual under consideration for employment with a motor carrier.

(Added Pub. L. 105-178, title IV, § 4014(a)(1), June 9, 1998, 112 Stat. 409.)

#### CODIFICATION

Pub. L. 105-178, title IV, § 4014(a)(1), June 9, 1998, 112 Stat. 409, which directed the addition of section 508 at end of this chapter, was executed by adding this section at the end of subchapter I of this chapter to reflect the probable intent of Congress.

#### PRIOR PROVISIONS

A prior section 508, added Pub. L. 102-548, § 2(a), Oct. 28, 1992, 106 Stat. 3646, related to certification of weights and description, prior to repeal by Pub. L. 103-272, § 4(j)(11)(B), July 5, 1994, 108 Stat. 1368. See chapter 59 of this title.

#### EFFECTIVE DATE

Pub. L. 105-178, title IV, § 4014(b), June 9, 1998, 112 Stat. 411, provided that: "The amendments made by subsection (a) [enacting this section] shall take effect on January 31, 1999."

### SUBCHAPTER II—PENALTIES

#### § 521. Civil penalties

(a)(1) A person required under section 504 of this title to make, prepare, preserve, or submit to the Secretary of Transportation a record about rail carrier transportation, that does not make, prepare, preserve, or submit that record as required under that section, is liable to the United States Government for a civil penalty of \$500 for each violation.

(2) A rail carrier, and a lessor, receiver, or trustee of that carrier, violating section 504(c)(1) of this title, is liable to the Government for a civil penalty of \$100 for each violation.

(3) A rail carrier, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective service against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Secretary or answer a question, that does not make a report to the Secretary or does not specifically, completely, and truthfully answer the question, is liable to the Government for a civil penalty of \$100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(5) Trial in a civil action under this subsection is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

(b) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.—

(1) NOTICE.—

(A) IN GENERAL.—If the Secretary finds that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A),<sup>1</sup> or 31502 of this title, or a violation of a regulation issued under any of those provisions, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable

particularity the nature of the violation found and the provision which has been violated. The notice shall specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(B) NONAPPLICABILITY TO REPORTING AND RECORDKEEPING VIOLATIONS.—Subparagraph (A) shall not apply to reporting and record-keeping violations.

(2) CIVIL PENALTY.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding \$2,500.

(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed \$10,000; or

(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to ex-

<sup>1</sup> See References in Text note below.

ceed \$10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.

(C) VIOLATIONS PERTAINING TO CDLS.—Any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title shall be liable to the United States for a civil penalty not to exceed \$2,500 for each offense.

(D) DETERMINATION OF AMOUNT.—The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(E)(i) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A person subject to chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator of a commercial motor vehicle subject to part B of subtitle VI who fails to allow promptly, upon demand, the Secretary (or an employee designated by the Secretary) to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) shall be liable to the United States for a civil penalty not to exceed \$1,000 for each offense. Each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed \$10,000. In the case of a motor carrier, the Secretary may also place the violator's motor carrier operations out of service. It shall be a defense to a penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing in this subparagraph amends or supersedes any remedy available to the Secretary under section 502(d), section 507(c), or any other provision of this title.

(ii) PLACE OUT OF SERVICE.—The Secretary may by regulation adopt procedures for placing out of service the commercial motor vehicle of a foreign-domiciled motor carrier that fails to promptly allow the Secretary to inspect and copy a record or inspect equipment, land, buildings, or other property.

(F) PENALTY FOR VIOLATIONS RELATING TO OUT OF SERVICE ORDERS.—A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an imminent hazard out of service order issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed \$25,000.

(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title, as the case may be.

(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

(5)(A) If, upon inspection or investigation, the Secretary determines that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title or a regulation issued under any of those provisions, or combination of such violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

(B) In this paragraph, "imminent hazard" means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.

(6) CRIMINAL PENALTIES.—

(A) IN GENERAL.—Any person who knowingly and willfully violates any provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title, or a regulation issued under any of those provisions shall, upon conviction, be subject for each offense to a fine not to exceed \$25,000 or imprisonment for a term not to exceed one year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be subject, upon conviction, to a fine not to exceed \$2,500.

(B) VIOLATIONS PERTAINING TO CDLS.—Any person who knowingly and willfully violates—

(i) any provision of section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title or a regulation issued under such section, or

(ii) with respect to notification of a serious traffic violation as defined under section 31301 of this title, any provision of section 31303(a) of this title or a regulation issued under section 31303(a),

shall, upon conviction, be subject for each offense to a fine not to exceed \$5,000 or imprisonment for a term not to exceed 90 days, or both.

(7) The Secretary shall issue regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and orders under this subsection.

(8) PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.—

(A) IN GENERAL.—An owner or operator of a commercial motor vehicle against whom a civil penalty is assessed under this chapter or chapter 51, 149, or 311 of this title and who does not pay such penalty or fails to arrange and abide by an acceptable payment plan for such civil penalty may not operate in interstate commerce beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty. This paragraph shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11, United States Code.

(B) REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and an opportunity for public comment, shall issue regulations setting forth procedures for ordering commercial motor vehicle owners and operators delinquent in paying civil penalties to cease operations until payment has been made.

(9) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States Court of Appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(10) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund (other than the Mass Transit Account).

(11) In any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

(12) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(13) The provisions of this subsection shall not affect chapter 51 of this title or any regulation promulgated by the Secretary under chapter 51.

(14) As used in this subsection, the terms "commercial motor vehicle", "employee", "employer", and "State" have the meaning such terms have under section 31132 of this title.

(15) IMPOUNDMENT OF COMMERCIAL MOTOR VEHICLES.—

(A) ENFORCEMENT OF IMMINENT HAZARD OUT-OF-SERVICE ORDERS.—

(i) The Secretary, or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, may enforce an imminent hazard out-of-service order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder, by towing and impounding a commercial motor vehicle until the order is rescinded.

(ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker, or other party to arrange for the alternative transportation of any cargo or passenger being transported at the time the commercial motor vehicle is immobilized. In the case of a commercial motor vehicle transporting passengers, the Secretary or authorized State official shall provide reasonable, temporary, and secure shelter and accommodations for passengers in transit.

(iii) The Secretary's designee or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, shall immediately notify the owner of a commercial motor vehicle of the impoundment and the opportunity for review of the impoundment. A review shall be provided in accordance with section 554 of title 5, except that the review shall occur not later than 10 days after the impoundment.

(B) ISSUANCE OF REGULATIONS.—The Secretary shall promulgate regulations on the use of impoundment or immobilization of commercial motor vehicles as a means of enforcing additional out-of-service orders issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder. Regulations promulgated under this subparagraph shall include consideration of public safety, the protection of passengers and cargo, inconvenience to passengers, and the security of the commercial motor vehicle.

(C) DEFINITION.—In this paragraph, the term "impoundment" or "impounding" means the seizing and taking into custody of a commercial motor vehicle or the immobilizing of a commercial motor vehicle through the attachment of a locking device or other mechanical or electronic means.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2435; Pub. L. 98-554, title II, §213(b), Oct. 30, 1984, 98 Stat. 2842; Pub. L. 99-570, title XII, §12012, Oct. 27, 1986, 100 Stat. 3207-184; Pub. L. 101-500, §15(e)(2), Nov. 3, 1990, 104 Stat. 1220; Pub. L. 102-548, §2(b), Oct. 28, 1992, 106 Stat. 3648; Pub. L. 103-272, §§4(j)(11)(D), 5(m)(11), July 5, 1994, 108 Stat. 1368, 1376; Pub. L. 104-287, §5(4), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105-178, title IV, §4015(a), (b), June 9, 1998, 112 Stat. 411; Pub. L. 106-159, title II, §§206(b), 208, Dec. 9, 1999, 113 Stat. 1763, 1764; Pub. L. 109-59, title IV, §§4102(a), 4103, Aug. 10, 2005, 119 Stat. 1715, 1716; Pub. L. 112-141, div. C, title II, §§32501(b), 32502-32504, 32506, July 6, 2012, 126 Stat. 803, 804.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
521 .....	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 521	49 U.S. Code	Revised Section
(a) .....	20(7)(a), (c)-(e).	11901
(b) .....	322(h).	11901

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a)(3), the words "against heat and cold" are inserted for consistency with sections 11105 and 11901 of the revised title.

Subsection (b) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(h) (1st sentence) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(h) (1st sentence) to motor carriers of migrant workers and motor private carriers. The reference to 49:303(c), 306(a)(1), and 309(a)(1) is omitted as not applicable to this chapter.

## REFERENCES IN TEXT

Section 31310(g)(1)(A), referred to in subsec. (b)(1)(A), was redesignated section 31310(i)(1)(A), by Pub. L. 106-159, title II, § 201(b)(1), Dec. 9, 1999, 113 Stat. 1759.

The date of the enactment of this paragraph, referred to in subsec. (b)(8)(B), is the date of enactment of Pub. L. 106-159, which was approved Dec. 9, 1999.

The Federal Rules of Criminal Procedure, referred to in subsec. (b)(12), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

## AMENDMENTS

2012—Subsec. (b)(2)(D). Pub. L. 112-141, § 32506, struck out "ability to pay," after "prior offenses."

Subsec. (b)(2)(E). Pub. L. 112-141, § 32501(b), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(2)(E)(i). Pub. L. 112-141, § 32502, inserted "In the case of a motor carrier, the Secretary may also place the violator's motor carrier operations out of service," after "\$10,000," and substituted "defense to a penalty" for "defense to such penalty".

Subsec. (b)(2)(F). Pub. L. 112-141, § 32503, added subpar. (F).

Subsec. (b)(15). Pub. L. 112-141, § 32504, added par. (15).  
2005—Subsec. (b). Pub. L. 109-59, § 4103(1), inserted headings for subsec. (b), par. (1), and subpar. (A).

Subsec. (b)(2)(B). Pub. L. 109-59, § 4102(a)(2), substituted "\$10,000" for "\$5,000" in cls. (i) and (ii).

Subsec. (b)(2)(B)(i). Pub. L. 109-59, § 4102(a)(1), substituted "\$1,000" for "\$500".

Subsec. (b)(2)(E). Pub. L. 109-59, § 4103(2), added subpar. (E).

1999—Subsec. (b)(5)(B). Pub. L. 106-159, § 208, substituted "substantially increases the likelihood of" for "is likely to result in".

Subsec. (b)(8) to (14). Pub. L. 106-159, § 206(b), added par. (8) and redesignated former pars. (8) to (13) as (9) to (14), respectively.

1998—Subsec. (b)(1)(A). Pub. L. 105-178, § 4015(a)(1), struck out "fix a reasonable time for abatement of the violation," before "specify the proposed civil penalty".

Subsec. (b)(1)(B). Pub. L. 105-178, § 4015(a)(2), added subpar. (B) and struck out former subpar. (B) which

read as follows: "The Secretary shall, not later than 60 days after November 3, 1990, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2)(A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall—

"(i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and

"(ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious."

Subsec. (b)(2)(A). Pub. L. 105-178, § 4015(b)(1), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: "Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of a recordkeeping requirement issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title or which is a violation of chapter 59 of this title shall be liable to the United States for a civil penalty not to exceed \$500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single violation shall not exceed \$2,500. If the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, the Secretary may assess a civil penalty not to exceed \$1,000 for each offense; except that the maximum fine for each such pattern of safety violations shall not exceed \$10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (other than subparagraph (B)), except for recordkeeping violations, no civil penalty shall be assessed under this section against an employee for a violation unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed \$1,000."

Subsec. (b)(2)(B) to (D). Pub. L. 105-178, § 4015(b)(2), (3), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

1996—Subsec. (b)(1)(B). Pub. L. 104-287 substituted "November 3, 1990" for "the date of enactment of this subparagraph" in introductory provisions.

1994—Subsec. (b)(1)(A). Pub. L. 103-272, § 5(m)(11)(A), substituted "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and "any of those provisions" for "such sections or Act".

Subsec. (b)(2)(A). Pub. L. 103-272, § 5(m)(11)(B), substituted "under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984".

Pub. L. 103-272, § 4(j)(11)(D), substituted "chapter 59 of this title" for "section 508 of this title".

Subsec. (b)(2)(B). Pub. L. 103-272, § 5(m)(11)(C), substituted "section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title" for "section 12002, 12003,

12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986”.

Subsec. (b)(3). Pub. L. 103-272, §5(m)(11)(D), substituted “subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title” for “section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986”.

Subsec. (b)(5)(A). Pub. L. 103-272, §5(m)(11)(E), substituted “a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title” for “section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986” and “any of those provisions” for “such sections or Act”.

Subsec. (b)(6)(A). Pub. L. 103-272, §5(m)(11)(F), substituted “subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title” for “section 3102 of this title, the Motor Carrier Safety Act of 1984”, “any of those provisions” for “such section or Act”, and “shall be subject” for “shall be liable”.

Subsec. (b)(6)(B)(i). Pub. L. 103-272, §5(m)(11)(G), substituted “section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title” for “section 12002, 12003(b), 12003(c), 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986”.

Subsec. (b)(6)(B)(ii). Pub. L. 103-272, §5(m)(11)(H), substituted “section 31301 of this title” for “section 12019 of such Act”, “section 31303(a) of this title” for “section 12003(a) of such Act”, and “section 31303(a)” for “such section 12003(a)”.

Subsec. (b)(12). Pub. L. 103-272, §5(m)(11)(I), substituted “chapter 51 of this title” for “any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812)” and “chapter 51” for “such Act”.

Subsec. (b)(13). Pub. L. 103-272, §5(m)(11)(J), substituted “section 31132 of this title” for “section 204 of the Motor Carrier Safety Act of 1984”.

1992—Subsec. (b)(2)(A). Pub. L. 102-548 inserted “or which is a violation of section 508 of this title” after “Act of 1984”.

1990—Subsec. (b)(1). Pub. L. 101-500 designated existing provisions as subpar. (A) and added subpar. (B).

1986—Subsec. (b)(1). Pub. L. 99-570, §12012(a), inserted “or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986” after “the Motor Carrier Safety Act of 1984” and substituted “such sections” for “such section”.

Subsec. (b)(2). Pub. L. 99-570, §12012(b), (f)(1), inserted heading, designated existing provisions as subpars. (A) and (C) with corresponding headings, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and inserted exception relating to subpar. (B).

Subsec. (b)(3). Pub. L. 99-570, §12012(c), inserted “or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986” after “the Motor Carrier Safety Act of 1984”.

Subsec. (b)(5)(A). Pub. L. 99-570, §12012(d), inserted “or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986” after “the Motor Carrier Safety Act of 1984” and substituted “such sections” for “such section”.

Subsec. (b)(6). Pub. L. 99-570, §12012(e), (f)(2), (g)(1), inserted heading, designated existing provisions as subpar. (A) with corresponding heading, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and substituted “to a fine” for “for a fine” in two places.

Subsec. (b)(13). Pub. L. 99-570, §12012(g)(2), substituted “section 204” for “section 4”.

1984—Subsec. (b)(1). Pub. L. 98-554 substituted provisions relating to notice to violators and opportunity for hearings for former provisions which set forth penalties for failure to make reports and keep records.

Subsec. (b)(2). Pub. L. 98-554 substituted provisions setting forth amount of civil penalties for former provisions which related to the place of trial and manner of

service of process for violations of recordkeeping and reporting provisions.

Subsec. (b)(3) to (13). Pub. L. 98-554 added pars. (3) to (13).

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

#### DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

#### MINIMUM AND MAXIMUM ASSESSMENTS

Pub. L. 106-159, title II, §222, Dec. 9, 1999, 113 Stat. 1769, provided that:

“(a) IN GENERAL.—The Secretary of Transportation should ensure that motor carriers operate safely by imposing civil penalties at a level calculated to ensure prompt and sustained compliance with Federal motor carrier safety and commercial driver’s license laws.

“(b) ESTABLISHMENT.—The Secretary—  
“(1) should establish and assess minimum civil penalties for each violation of a law referred to in subsection (a); and

“(2) shall assess the maximum civil penalty for each violation of a law referred to in subsection (a) by any person who is found to have committed a pattern of violations of critical or acute regulations issued to carry out such a law or to have previously committed the same or a related violation of critical or acute regulations issued to carry out such a law.

“(c) EXTRAORDINARY CIRCUMSTANCES.—If the Secretary determines and documents that extraordinary circumstances exist which merit the assessment of any civil penalty lower than any level established under subsection (b), the Secretary may assess such lower penalty. In cases where a person has been found to have previously committed the same or a related violation of critical or acute regulations issued to carry out a law referred to in subsection (a), extraordinary circumstances may be found to exist when the Secretary determines that repetition of such violation does not demonstrate a failure to take appropriate remedial action.

“(d) REPORT TO CONGRESS.—  
“(1) IN GENERAL.—The Secretary shall conduct a study of the effectiveness of the revised civil penalties established in the Transportation Equity Act for the 21st Century [Pub. L. 105-178, see Tables for classification] and this Act [see Tables for classification] in ensuring prompt and sustained compliance with Federal motor carrier safety and commercial driver’s license laws.

“(2) SUBMISSION TO CONGRESS.—The Secretary shall transmit the results of such study and any recommendations to Congress by September 30, 2002.”

#### REPORT; PENALTIES; EFFECTIVENESS

Section 213(d) of Pub. L. 98-554 directed Secretary of Transportation to conduct a study of effectiveness of civil and criminal penalties established by amendments made by section 213 of Pub. L. 98-554 in deterring violations of commercial motor vehicle safety regulations issued under title II of Pub. L. 98-554 and in effectively prosecuting such violations when they occur, which study was to examine the effectiveness of penalties in effect before Oct. 30, 1984, in comparison to the penalties established by the amendments made by title II of Pub. L. 98-554, and was to further investigate the need for, and make recommendations concerning, increased fine levels for civil and criminal penalties, and the need for additional categories of civil and criminal

penalties to deter further, and prosecute effectively, violations of such commercial motor vehicle safety regulations, and further directed Secretary to submit to Congress a report on the findings of this study, together with legislative recommendations, not later than 2 years after Oct. 30, 1984.

**§ 522. Reporting and record keeping violations**

A person required to make a report to the Secretary of Transportation, or make, prepare, or preserve a record, under section 504 of this title about transportation by rail carrier, that knowingly and willfully (1) makes a false entry in the report or record, (2) destroys, mutilates, changes, or by another means falsifies the record, (3) does not enter business related facts and transactions in the record, (4) makes, prepares, or preserves the record in violation of a regulation or order of the Secretary, or (5) files a false report or record with the Secretary, shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2436; Pub. L. 105-178, title IV, §4015(c), June 9, 1998, 112 Stat. 412.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
522 .....	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
522(b) .....	49:304(a)(3) (last sentence) (related to "Sec. 322(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(g)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 322(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(g)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 522	49 U.S. Code	Revised Section
(a) .....	20(7)(b) (less proviso).	11909
(b) .....	322(g).	11909

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

AMENDMENTS

1998—Pub. L. 105-178 struck out "(a)" before "A person required to make a report to the Secretary of Transportation" and struck out subsec. (b) which read as follows: "A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that ques-

tion in 30 days from the date the Secretary requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Secretary, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be fined not more than \$5,000."

**§ 523. Unlawful disclosure of information**

(a) A motor carrier, or an officer, receiver, trustee, lessee, or employee of that carrier, or another person authorized by that carrier to receive information from that carrier, may not knowingly disclose to another person (except the shipper or consignee), and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(b) This chapter does not prevent a motor carrier, motor carrier of migrant workers, or motor private carrier from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; and

(3) to another motor carrier, motor carrier of migrant workers, or motor private carrier, or its agent, to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Secretary of Transportation delegated to make an inspection under section 504 of this title who knowingly discloses information acquired during that inspection, except as directed by the Secretary, a court, or a judge of that court, shall be fined not more than \$500, imprisoned for not more than 6 months, or both.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2436.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
523 .....	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
523(b) .....	49:304(a)(3) (last sentence) (related to "Sec. 322(f)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(d), (f)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 322(f)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(d), (f)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
523(c) .....	49:304(a)(3) (last sentence) (related to "Sec. 322(d)").	
	49:304(a)(3a) (last sentence) (related to "Sec. 322(d)").	

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate

Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 523	49 U.S. Code	Revised Section
(a) .....	322(e).	11910
(b) .....	322(f).	11910
(c) .....	20(7)(f).	11910
	322(d).	11910

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

Subsection (a) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(e) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(e) to motor carriers of migrant workers and motor private carriers. The words “engaged in interstate or foreign commerce” are omitted as unnecessary because of the restatement of the chapter.

In subsections (b) and (c), the text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

**§ 524. Evasion of regulation of motor carriers**

A person, or an officer, employee, or agent of that person, that by any means tries to evade regulation of motor carriers under this chapter, chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions, shall be fined at least \$2,000 but not more than \$5,000 for the first violation and at least \$2,500 but not more than \$7,500 for a subsequent violation.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2437; Pub. L. 112–141, div. C, title II, §32505(a), July 6, 2012, 126 Stat. 804.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
524 .....	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 524	49 U.S. Code	Revised Section
	322(c) (related to evasion of regulation).	11906

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The section does not apply to motor carriers of migrant workers and motor private carriers because 49:322(c) (related to evasion of regulation) only applies

to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(c) (related to evasion of regulation) to motor carriers of migrant workers and motor private carriers.

AMENDMENTS

2012—Pub. L. 112–141 struck out “knowingly and willfully” after “by any means”, inserted “, chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions,” after “this chapter”, and substituted “\$2,000 but not more than \$5,000” for “\$200 but not more than \$500” and “\$2,500 but not more than \$7,500” for “\$250 but not more than \$2,000”.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

**§ 525. Disobedience to subpoenas**

A motor carrier, motor carrier of migrant workers, or motor private carrier not obeying a subpoena or requirement of the Secretary of Transportation under this chapter to appear and testify or produce records shall be fined at least \$1,000 but not more than \$10,000, imprisoned for not more than one year, or both. The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2437; Pub. L. 112–141, div. C, title II, §32110, July 6, 2012, 126 Stat. 782.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
525 .....	49:304(a)(3) (last sentence) (related to “Sec. 305(d) (related to liability)”).	Feb. 4, 1887, ch. 104, 24 Stat., 379, §204(a)(3) (last sentence) (related to “Sec. 205(d) (related to liability)”); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to “Sec. 305(d) (related to liability)”).	Feb. 4, 1887, ch. 104, 24 Stat., 379, §204(a)(3a) (last sentence) (related to “Sec. 205(d) (related to liability)”); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 525	49 U.S. Code	Revised Section
	305(d) (related to liability).	11913

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The section does not apply to the liability of a rail carrier because 49:46 is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The text of 49:304(a)(3)

(last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The words "under this chapter" are added for clarity.

AMENDMENTS

2012—Pub. L. 112-141 substituted "subpoenas" for "subpenas" in section catchline, and, in text, substituted "subpoena" for "subpena", "\$1,000" for "\$100", and "\$10,000" for "\$5,000" and inserted at end "The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records."

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 526. General criminal penalty when specific penalty not provided

When another criminal penalty is not provided under a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions, related to transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, shall be fined at least \$100 but not more than \$500 for the first violation and at least \$200 but not more than \$500 for a subsequent violation. A separate violation occurs each day the violation continues.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2437; Pub. L. 98-554, title II, §213(c), Oct. 30, 1984, 98 Stat. 2844; Pub. L. 103-272, §5(m)(12), July 5, 1994, 108 Stat. 1377.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 526, 49:304(a)(3) (last sentence) (related to "Sec. 322(a)"), Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(a)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546. Row 2: 49:304(a)(3a) (last sentence) (related to "Sec. 322(a)"), Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(a)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958. Row 3: 49:1655(f)(2), Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Table with 3 columns: Section 526, 49 U.S. Code, Revised Section. Row 1: 322(a), 11914

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The reference to a certificate, permit, or licence is omitted as not applicable to this chapter. The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

AMENDMENTS

1994—Pub. L. 103-272 substituted "a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions" for "this chapter, section 3102 of this title, or the Motor Carrier Safety Act of 1984, a person that knowingly and willfully violates a provision of this chapter or such section or Act, or a regulation or order of the Secretary of Transportation under this chapter or such section or Act".

1984—Pub. L. 98-554 inserted " , section 3102 of this title, or the Motor Carrier Safety Act of 1984" after "chapter" the first place it appears and inserted "or such section or Act" after "chapter" the second and third places it appears.

CHAPTER 7—SURFACE TRANSPORTATION BOARD

SUBCHAPTER I—ESTABLISHMENT

- Sec. 701. Establishment of Board.
702. Functions.
703. Administrative provisions.
704. Annual report.
705. Authorization of appropriations.
706. Reporting official action.

SUBCHAPTER II—ADMINISTRATIVE

- 721. Powers.
722. Board action.
723. Service of notice in Board proceedings.
724. Service of process in court proceedings.
725. Administrative support.
726. Railroad-Shipper Transportation Advisory Council.
727. Definitions.

SUBCHAPTER I—ESTABLISHMENT

§ 701. Establishment of Board

(a) ESTABLISHMENT.—There is hereby established within the Department of Transportation the Surface Transportation Board.

(b) MEMBERSHIP.—(1) The Board shall consist of 3 members, to be appointed by the President, by and with the advice and consent of the Senate. Not more than 2 members may be appointed from the same political party.

(2) At any given time, at least 2 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation or transportation regulation, and at least one member shall be an individual with professional or business experience (including agriculture) in the private sector.

(3) The term of each member of the Board shall be 5 years and shall begin when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed one year. The President may

remove a member for inefficiency, neglect of duty, or malfeasance in office.

(4) On January 1, 1996, the members of the Interstate Commerce Commission serving unexpired terms on December 29, 1995, shall become members of the Board, to serve for a period of time equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission. Any member of the Interstate Commerce Commission whose term expires on December 31, 1995, shall become a member of the Board, subject to paragraph (3).

(5) No individual may serve as a member of the Board for more than 2 terms. In the case of an individual who becomes a member of the Board pursuant to paragraph (4), or an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than one additional term.

(6) A member of the Board may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

(7) A vacancy in the membership of the Board does not impair the right of the remaining members to exercise all of the powers of the Board. The Board may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

(c) CHAIRMAN.—(1) There shall be at the head of the Board a Chairman, who shall be designated by the President from among the members of the Board. The Chairman shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

(2) Subject to the general policies, decisions, findings, and determinations of the Board, the Chairman shall be responsible for administering the Board. The Chairman may delegate the powers granted under this paragraph to an officer, employee, or office of the Board. The Chairman shall—

(A) appoint and supervise, other than regular and full-time employees in the immediate offices of another member, the officers and employees of the Board, including attorneys to provide legal aid and service to the Board and its members, and to represent the Board in any case in court;

(B) appoint the heads of offices with the approval of the Board;

(C) distribute Board business among officers and employees and offices of the Board;

(D) prepare requests for appropriations for the Board and submit those requests to the President and Congress with the prior approval of the Board; and

(E) supervise the expenditure of funds allocated by the Board for major programs and purposes.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 932; amended Pub. L. 104-287, §5(5), Oct. 11, 1996, 110 Stat. 3389.)

#### AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104-287 substituted “January 1, 1996” for “the effective date of this section” and

“December 29, 1995,” for “the date of the enactment of the ICC Termination Act of 1995”.

#### EFFECTIVE DATE

Pub. L. 104-88, §2, Dec. 29, 1995, 109 Stat. 804, provided that: “Except as otherwise provided in this Act [see Tables for classification], this Act shall take effect on January 1, 1996.”

#### SAVINGS PROVISION

Pub. L. 104-88, title II, §204, Dec. 29, 1995, 109 Stat. 941, provided that:

“(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

“(1) that have been issued, made, granted, or allowed to become effective by the Interstate Commerce Commission, any officer or employee of the Interstate Commerce Commission, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act [see Tables for classification] or the amendments made by this Act; and

“(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Board [Surface Transportation Board], any other authorized official, a court of competent jurisdiction, or operation of law. The Board shall promptly rescind all regulations established by the Interstate Commerce Commission that are based on provisions of law repealed and not substantively reenacted by this Act.

“(b) PROCEEDINGS.—(1) The provisions of this Act shall not affect any proceedings or any application for any license pending before the Interstate Commerce Commission at the time this Act takes effect [see Effective Date note above], insofar as those functions are retained and transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

“(2) The Board and the Secretary are authorized to provide for the orderly transfer of pending proceedings from the Interstate Commerce Commission.

“(3)(A) Except as provided in subparagraphs (B) and (C), in the case of a proceeding under a provision of law repeal [repealed], and not reenacted, by this Act such proceeding shall be terminated.

“(B) Any proceeding involving a pipeline carrier under subtitle IV of title 49, United States Code, shall be continued to be heard by the Board under such subtitle, as in effect on the day before the effective date of this section [see Effective Date note above], until completion of such proceeding.

“(C) Any proceeding involving the merger of a motor carrier property under subtitle IV of title 49, United States Code, shall continue to be heard by the Board under such subtitle, as in effect on the day before the effective date of this section, until completion of such proceeding.

“(4) Any proceeding with respect to any tariff, rate charge, classification, rule, regulation, or service that was pending under the Intercoastal Shipping Act, 1933 [former 46 U.S.C. App. 843 et seq.] or the Shipping Act, 1916 [former 46 U.S.C. App. 801 et seq., see Disposition

Table preceding section 101 of Title 46, Shipping] before the Federal Maritime Commission on November 1, 1995, shall continue to be heard until completion or issuance of a final order thereon under all applicable laws in effect as of November 1, 1995.

“(c) **SUITS.**—(1) This Act shall not affect suits commenced before the date of the enactment of this Act [Dec. 29, 1995], except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

“(2) Any suit by or against the Interstate Commerce Commission begun before the effective date of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Board (to the extent the suit involves functions transferred to the Board under this Act) or the Secretary (to the extent the suit involves functions transferred to the Secretary under this Act) substituted for the Commission.

“(3) If the court in a suit described in paragraph (1) remands a case to the Board or the Secretary, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

“(d) **CONTINUANCE OF ACTIONS AGAINST OFFICERS.**—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Interstate Commerce Commission shall abate by reason of the enactment of this Act. No cause of action by or against the Interstate Commerce Commission, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this Act.

“(e) **EXERCISE OF AUTHORITIES.**—Except as otherwise provided by law, an officer or employee of the Board may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.”

#### ABOLITION OF INTERSTATE COMMERCE COMMISSION

Pub. L. 104-88, title I, §101, Dec. 29, 1995, 109 Stat. 804, provided that: “The Interstate Commerce Commission is abolished.”

#### ORGANIZATION OF FUNCTIONS OF SURFACE TRANSPORTATION BOARD

Pub. L. 104-88, title II, §202, Dec. 29, 1995, 109 Stat. 940, provided that: “The Chairman of the Surface Transportation Board (in this Act [see Tables for classification] referred to as the ‘Board’) may allocate or reallocate any function of the Board, consistent with this title [see Tables for classification] and subchapter I of chapter 7 [49 U.S.C. 701 et seq.], as amended by section 201 of this title, among the members or employees of the Board, and may establish, consolidate, alter, or discontinue in the Board any organizational entities that were entities of the Interstate Commerce Commission, as the Chairman considers necessary or appropriate.”

#### TRANSFER OF ASSETS AND PERSONNEL

Pub. L. 104-88, title II, §203, Dec. 29, 1995, 109 Stat. 941, provided that:

“(a) **TO BOARD.**—Except as otherwise provided in this Act [see Tables for classification] and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Board [Surface Transportation Board] by this Act shall be transferred to the Board for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Interstate Commerce Commission shall also be transferred to the Board. Such unexpended balances, allocations, and other funds, together with any unobli-

gated balances from user fees collected by the Commission during fiscal year 1996, may be used to pay for the shutdown of the Commission and severance costs for Commission personnel, regardless of whether those costs are incurred at the Commission or at the Board.

“(b) **TO SECRETARY.**—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Secretary by this Act shall be transferred to the Secretary for use in connection with the functions transferred.

“(c) **SEPARATED EMPLOYEES.**—Notwithstanding all other laws and regulations, the Department of Transportation shall place all Interstate Commerce Commission employees separated from the Commission as a result of this Act on the DOT reemployment priority list (competitive service) or the priority employment list (excepted service).”

#### REFERENCES TO INTERSTATE COMMERCE COMMISSION DEEMED TO BE REFERENCES TO SURFACE TRANSPORTATION BOARD

Pub. L. 104-88, title II, §205, Dec. 29, 1995, 109 Stat. 943, provided that: “Any reference to the Interstate Commerce Commission in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Interstate Commerce Commission or an officer or employee of the Interstate Commerce Commission, is deemed to refer to the Board [Surface Transportation Board], a member or employee of the Board, or the Secretary, as appropriate.”

#### § 702. Functions

Except as otherwise provided in the ICC Termination Act of 1995, or the amendments made thereby, the Board shall perform all functions that, immediately before January 1, 1996, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 933; amended Pub. L. 104-287, §5(6), Oct. 11, 1996, 110 Stat. 3389.)

#### REFERENCES IN TEXT

The ICC Termination Act of 1995, referred to in text, is Pub. L. 104-88, Dec. 29, 1995, 109 Stat. 803. For complete classification of this Act to the Code, see Short Title of 1995 Amendment note set out under section 101 of this title and Tables.

#### AMENDMENTS

1996—Pub. L. 104-287 substituted “January 1, 1996” for “the effective date of such Act”.

#### ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 701 of this title.

#### § 703. Administrative provisions

(a) **EXECUTIVE REORGANIZATION.**—Chapter 9 of title 5, United States Code, shall apply to the Board in the same manner as it does to an independent regulatory agency, and the Board shall be an establishment of the United States Government.

(b) **OPEN MEETINGS.**—For purposes of section 552b of title 5, United States Code, the Board shall be deemed to be an agency.

(c) **INDEPENDENCE.**—In the performance of their functions, the members, employees, and

other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department of Transportation.

(d) REPRESENTATION BY ATTORNEYS.—Attorneys designated by the Chairman of the Board may appear for, and represent the Board in, any civil action brought in connection with any function carried out by the Board pursuant to this chapter or subtitle IV or as otherwise authorized by law.

(e) ADMISSION TO PRACTICE.—Subject to section 500 of title 5, the Board may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

(f) BUDGET REQUESTS.—In each annual request for appropriations by the President, the Secretary of Transportation shall identify the portion thereof intended for the support of the Board and include a statement by the Board—

(1) showing the amount requested by the Board in its budgetary presentation to the Secretary and the Office of Management and Budget; and

(2) an assessment of the budgetary needs of the Board.

(g) DIRECT TRANSMITTAL TO CONGRESS.—The Board shall transmit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the Secretary of Transportation. An officer of an agency may not impose conditions on or impair communications by the Board with Congress, or a committee or Member of Congress, about the information.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 934.)

#### § 704. Annual report

The Board shall annually transmit to the Congress a report on its activities.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 934.)

#### § 705. Authorization of appropriations

There are authorized to be appropriated for the activities of the Board—

- (1) \$8,421,000 for fiscal year 1996;
- (2) \$12,000,000 for fiscal year 1997; and
- (3) \$12,000,000 for fiscal year 1998.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 934.)

#### § 706. Reporting official action

(a) REPORTS ON PROCEEDINGS.—The Board shall make a written report of each proceeding conducted on complaint or on its own initiative and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Board and, if damages are awarded, the findings of fact supporting the award. The Board may have its reports published for public use. A published report of the Board is competent evidence of its contents.

(b) SPECIAL RULES FOR MATTERS RELATED TO RAIL CARRIERS.—(1) When action of the Board in

a matter related to a rail carrier is taken by the Board, an individual member of the Board, or another individual or group of individuals designated to take official action for the Board, the written statement of that action (including a report, order, decision and order, vote, notice, letter, policy statement, or regulation) shall indicate—

(A) the official designation of the individual or group taking the action;

(B) the name of each individual taking, or participating in taking, the action; and

(C) the vote or position of each participating individual.

(2) If an individual member of a group taking an official action referred to in paragraph (1) does not participate in it, the written statement of the action shall indicate that the member did not participate. An individual participating in taking an official action is entitled to express the views of that individual as part of the written statement of the action. In addition to any publication of the written statement, it shall be made available to the public under section 552(a) of title 5.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 934.)

### SUBCHAPTER II—ADMINISTRATIVE

#### § 721. Powers

(a) IN GENERAL.—The Board shall carry out this chapter and subtitle IV. Enumeration of a power of the Board in this chapter or subtitle IV does not exclude another power the Board may have in carrying out this chapter or subtitle IV. The Board may prescribe regulations in carrying out this chapter and subtitle IV.

(b) INQUIRIES, REPORTS, AND ORDERS.—The Board may—

(1) inquire into and report on the management of the business of carriers providing transportation and services subject to subtitle IV;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers to the extent that the business of that person is related to the management of the business of that carrier;

(3) obtain from those carriers and persons information the Board decides is necessary to carry out subtitle IV; and

(4) when necessary to prevent irreparable harm, issue an appropriate order without regard to subchapter II of chapter 5 of title 5.

(c) SUBPOENA WITNESSES.—(1) The Board may subpoena witnesses and records related to a proceeding of the Board from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Board, or a party to a proceeding before the Board, may petition a court of the United States to enforce that subpoena.

(2) The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

(d) DEPOSITIONS.—(1) In a proceeding, the Board may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending before the Board may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

(2) If a witness fails to be deposed or to produce records under paragraph (1), the Board may subpoena the witness to take a deposition, produce the records, or both.

(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(6) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Board or agreed on by the parties by written stipulation filed with the Board. A deposition shall be filed with the Board promptly.

(e) WITNESS FEES.—Each witness summoned before the Board or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 935.)

#### § 722. Board action

(a) EFFECTIVE DATE OF ACTIONS.—Unless otherwise provided in subtitle IV, the Board may determine, within a reasonable time, when its actions, other than an action ordering the payment of money, take effect.

(b) TERMINATING AND CHANGING ACTIONS.—An action of the Board remains in effect under its own terms or until superseded. The Board may change, suspend, or set aside any such action on notice. Notice may be given in a manner determined by the Board. A court of competent jurisdiction may suspend or set aside any such action.

(c) RECONSIDERING ACTIONS.—The Board may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

(1) reopen a proceeding;

(2) grant rehearing, reargument, or reconsideration of an action of the Board; or

(3) change an action of the Board.

An interested party may petition to reopen and reconsider an action of the Board under this subsection under regulations of the Board.

(d) FINALITY OF ACTIONS.—Notwithstanding subtitle IV, an action of the Board under this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 936.)

#### § 723. Service of notice in Board proceedings

(a) DESIGNATION OF AGENT.—A carrier providing transportation subject to the jurisdiction of the Board under subtitle IV shall designate an agent in the District of Columbia, on whom service of notices in a proceeding before, and of actions of, the Board may be made.

(b) FILING AND CHANGING DESIGNATIONS.—A designation under subsection (a) shall be in writing and filed with the Board. The designation may be changed at any time in the same manner as originally made.

(c) SERVICE OF NOTICE.—Except as otherwise provided, notices of the Board shall be served on its designated agent at the office or usual place of residence in the District of Columbia of that agent. A notice of action of the Board shall be served immediately on the agent or in another manner provided by law. If that carrier does not have a designated agent, service may be made by posting the notice in the office of the Board.

(d) SPECIAL RULE FOR RAIL CARRIERS.—In a proceeding involving the lawfulness of classifications, rates, or practices of a rail carrier that has not designated an agent under this section, service of notice of the Board on an attorney in fact for the carrier constitutes service of notice on the carrier.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 937.)

#### § 724. Service of process in court proceedings

(a) DESIGNATION OF AGENT.—A carrier providing transportation subject to the jurisdiction of the Board under subtitle IV shall designate an agent in the District of Columbia on whom service of process in an action before a district court may be made. Except as otherwise provided, process in an action before a district court shall be served on the designated agent of that carrier at the office or usual place of residence in the District of Columbia of that agent. If the carrier does not have a designated agent, service may be made by posting the notice in the office of the Board.

(b) CHANGING DESIGNATION.—A designation under this section may be changed at any time in the same manner as originally made.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 937.)

#### § 725. Administrative support

The Secretary of Transportation shall provide administrative support for the Board.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 937.)

### § 726. Railroad-Shipper Transportation Advisory Council

(a) **ESTABLISHMENT; MEMBERSHIP.**—There is established the Railroad-Shipper Transportation Advisory Council (in this section referred to as the “Council”) to be composed of 19 members, of which 15 members shall be appointed by the Chairman of the Board, after recommendation from rail carriers and shippers, within 60 days after December 29, 1995. The members of the Council shall be appointed as follows:

(1) The members of the Council shall be appointed from among citizens of the United States who are not regular full-time employees of the United States and shall be selected for appointment so as to provide as nearly as practicable a broad representation of the various segments of the railroad and rail shipper industries.

(2) Nine of the members shall be appointed from senior executive officers of organizations engaged in the railroad and rail shipping industries, which 9 members shall be the voting members of the Council. Council action and Council positions shall be determined by a majority vote of the members present. A majority of such voting members shall constitute a quorum. Of such 9 voting members—

(A) at least 4 shall be representative of small shippers (as determined by the Chairman); and

(B) at least 4 shall be representative of Class II or III railroads.

(3) The remaining 6 members of the Council shall serve in a nonvoting advisory capacity only, but shall be entitled to participate in Council deliberations. Of the remaining members—

(A) 3 shall be representative of Class I railroads; and

(B) 3 shall be representative of large shipper organizations (as determined by the Chairman).

(4) The Secretary of Transportation and the members of the Board shall serve as ex officio, nonvoting members of the Council. The Council shall not be subject to the Federal Advisory Committee Act. A list of the members appointed to the Council shall be forwarded to the Chairmen and ranking members of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(5) Each ex officio member of the Council may designate an alternate, who shall serve as a member of the Council whenever the ex officio member is unable to attend a meeting of the Council. Any such designated alternate shall be selected from individuals who exercise significant decision-making authority in the Federal agency involved.

(b) **TERM OF OFFICE.**—The members of the Council shall be appointed for a term of office of 3 years, except that of the members first appointed—

(1) 5 members shall be appointed for terms of 1 year; and

(2) 5 members shall be appointed for terms of 2 years,

as designated by the Chairman at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office. Vacancies on the Council shall be filled in the same manner in which the original appointments were made. No member of the Council shall be eligible to serve in excess of two consecutive terms.

(c) **ELECTION AND DUTIES OF OFFICERS.**—The Council Chairman and Vice Chairman and other appropriate officers of the Council shall be elected by and from the voting members of the Council. The Council Chairman shall serve as the Council’s executive officer and shall direct the administration of the Council, assign officer and committee duties, and shall be responsible for issuing and communicating the reports, policy positions and statements of the Council. In the event that the Council Chairman is unable to serve, the Vice Chairman shall act as Council Chairman.

(d) **EXPENSES.**—(1) The members of the Council shall receive no compensation for their services as such, but upon request by the Council Chairman, based on a showing of significant economic burden, the Secretary of Transportation or the Chairman of the Board, to the extent provided in advance in appropriation Acts, may provide reasonable and necessary travel expenses for such individual Council members from Department or Board funding sources in order to foster balanced representation on the Council.

(2) Upon request by the Council Chairman, the Secretary or Chairman of the Board, to the extent provided in advance in appropriations Acts, may pay the reasonable and necessary expenses incurred by the Council in connection with the coordination of Council activities, announcement and reporting of meetings, and preparation of such Council documents as are required or permitted by this section.

(3) The Council may solicit and use private funding for its activities, subject to this subsection.

(4) Prior to making any Federal funding requests, the Council Chairman shall undertake best efforts to fund such activities privately unless the Council Chairman determines that such private funding would create a conflict of interest, or the appearance thereof, or is otherwise impractical. The Council Chairman shall not request funding from any Federal agency without providing written justification as to why private funding would create any such conflict or appearance, or is otherwise impractical.

(5) To enable the Council to carry out its functions—

(A) the Council Chairman may request directly from any Federal agency such personnel, information, services, or facilities, on a compensated or uncompensated basis, as the Council Chairman determines necessary to carry out the functions of the Council;

(B) each Federal agency may, in its discretion, furnish the Council with such information, services, and facilities as the Council Chairman may request to the extent per-

mitted by law and within the limits of available funds; and

(C) each Federal agency may, in its discretion, detail to temporary duty with the Council, such personnel as the Council Chairman may request for carrying out the functions of the Council, each such detail to be without loss of seniority, pay, or other employee status.

(e) MEETINGS.—The Council shall meet at least semi-annually and shall hold other meetings at the call of the Council Chairman. Appropriate Federal facilities, where available, may be used for such meetings. Whenever the Council, or a committee of the Council, considers matters that affect the jurisdictional interests of Federal agencies that are not represented on the Council, the Council Chairman may invite the heads of such agencies, or their designees, to participate in the deliberations of the Council.

(f) FUNCTIONS AND DUTIES; ANNUAL REPORT.—(1) The Council shall advise the Secretary, the Chairman, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives with respect to rail transportation policy issues it considers significant, with particular attention to issues of importance to small shippers and small railroads, including car supply, rates, competition, and effective procedures for addressing legitimate shipper and other claims.

(2) To the extent the Council addresses specific grain car issues, it shall coordinate such activities with the National Grain Car Council. The Secretary and Chairman shall cooperate with the Council to provide research, technical and other reasonable support in developing any reports and policy statements required or authorized by this subsection.

(3) The Council shall endeavor to develop within the private sector mechanisms to prevent, or identify and effectively address, obstacles to the most effective and efficient transportation system practicable.

(4) The Council shall prepare an annual report concerning its activities and the results of Council efforts to resolve industry issues, and propose whatever regulatory or legislative relief it considers appropriate. The Council shall include in the annual report such recommendations as it considers appropriate with respect to the performance of the Secretary and Chairman under this chapter, and with respect to the operation and effectiveness of meetings and industry developments relating to the Council's efforts, and such other information as it considers appropriate. Such annual reports shall be reviewed by the Secretary and Chairman, and shall include the Secretary's and Chairman's views or comments relating to—

- (A) the accuracy of information therein;
- (B) Council efforts and reasonableness of Council positions and actions; and
- (C) any other aspects of the Council's work as they may consider appropriate.

The Council may prepare other reports or develop policy statements as the Council considers appropriate. An annual report shall be submitted for each fiscal year and shall be submitted

to the Secretary and Chairman within 90 days after the end of the fiscal year. Other such reports and statements may be submitted as the Council considers appropriate.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 937; amended Pub. L. 104-287, §5(7), Oct. 11, 1996, 110 Stat. 3389.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a)(4), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-287 substituted “December 29, 1995” for “the date of enactment of the ICC Termination Act of 1995” in introductory provisions.

§ 727. Definitions

All terms used in this chapter that are defined in subtitle IV shall have the meaning given those terms in that subtitle.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 940.)

**SUBTITLE II—OTHER GOVERNMENT AGENCIES**

Chapter	Sec.
<b>11. National Transportation Safety Board .....</b>	<b>1101</b>

**CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD**

SUBCHAPTER I—GENERAL

Sec.	
1101.	Definitions.
	SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE
1111.	General organization.
1112.	Special boards of inquiry on air transportation safety.
1113.	Administrative.
1114.	Disclosure, availability, and use of information.
1115.	Training.
1116.	Reports and studies.
1117.	Annual report.
1118.	Authorization of appropriations.
1119.	Accident and safety data classification and publication.

SUBCHAPTER III—AUTHORITY

1131.	General authority.
1132.	Civil aircraft accident investigations.
1133.	Review of other agency action.
1134.	Inspections and autopsies.
1135.	Secretary of Transportation's responses to safety recommendations.
1136.	Assistance to families of passengers involved in aircraft accidents.
1137.	Authority of the Inspector General.
1138.	Evaluation and audit of National Transportation Safety Board <sup>1</sup>
1139.	Assistance to families of passengers involved in rail passenger accidents.

SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

1151.	Aviation enforcement.
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<sup>1</sup> So in original. Probably should be followed by a period.